

IN THE COURT OF COMMON PLEAS
OF CUYAHOGA COUNTY, OHIO

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VICTORIA D. JOHNSON,

Plaintiff,

vs. Case No. 1:13CV-2012

UNIVERSITY HOSPITALS  
PHYSICIAN SERVICES,

Defendant.

~~~~~

Deposition of
VICTORIA DEBRA JOHNSON

March 14, 2014
10:22 a.m.

Taken at:
Giffen & Kaminski LLC
1300 East 9th Street, Suite 1600
Cleveland, OH 44114-1573

Christine M. Krause

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1 VICTORIA DEBRA JOHNSON, of lawful
2 age, called for examination, as provided by the
3 Ohio Rules of Civil Procedure, being by me
4 first duly sworn, as hereinafter certified,
5 deposed and said as follows:

6 EXAMINATION OF VICTORIA DEBRA JOHNSON

7 BY MS. KAMINSKI:

8 Q. Would you state your full name for
9 the record?

10 A. Victoria D. Johnson.

11 Q. What does the D stand for?

12 A. Debra.

13 Q. What is your current residential
14 address?

15 A. 3646 Lynnfield Road, Shaker Heights
16 Ohio, 44122.

17 Q. How long have you lived there?

18 A. Since 1999.

19 Q. Do you reside with anybody else?

20 A. No.

21 Q. What did you do prior to the time
22 you went to work for University Hospital
23 Physician Services?

24 A. I had some temp positions and I
25 also worked as a realtor.

1 Q. What type of temp positions did you
2 have?

3 A. Clerical.

4 Q. Did you work out of one particular
5 temp agency?

6 A. There were several.

7 Q. Several?

8 And when did you get your realtor's
9 license?

10 A. In 2001.

11 Q. And up until the time you went to
12 work for University Hospitals, did you ever
13 make your full living as a realtor?

14 A. Yes, I did.

15 Q. When was that?

16 A. I believe that was in 2001 when I
17 got my license. I worked for, yes, Realty One.

18 Q. Other than in 2001 did you ever
19 make your full time living as a realtor?

20 A. Yes, up until 2000 -- I guess right
21 before I started with UH.

22 Q. What made you stop working full
23 time as a realtor and start working at UH?

24 A. The market got pretty bad.

25 Q. But for the bad market would you

1 have stayed as a full time realtor?

2 A. Probably.

3 Q. Did you ever stop selling real
4 estate while you worked at UH?

5 A. Yes, there were some years.

6 Q. Which years?

7 A. I want to say I put my license in
8 escrow, I think, in 2008.

9 Q. Until?

10 A. Until, is it 2012? I think to
11 2012.

12 Q. So in 2012 you started selling real
13 estate again?

14 A. Uh-huh.

15 Q. Yes? You just have to say yes out
16 loud for the reporter.

17 A. Yes.

18 Q. Do you remember what month of 2012
19 you started selling real estate again?

20 A. No, I didn't. It wasn't full time.
21 It was a transaction here or there.

22 Q. And how did you get those
23 transactions to handle?

24 A. Friends.

25 Q. And who was the broker that you had

1 your license with?

2 A. VS Realty.

3 Q. VS Realty?

4 A. Uh-huh.

5 Q. Is that a yes?

6 A. Yes.

7 Q. And how many transactions would you
8 say you handled in 2012?

9 A. Maybe one or two. I don't quite
10 remember.

11 Q. You would have handled those while
12 you were working at UH; is that correct?

13 A. Correct.

14 Q. In fact, you had some of the
15 information about those transactions sent to
16 you at work at UH; correct?

17 A. That's possible.

18 Q. What hours did you work for UH in
19 2012? What were your work hours?

20 A. From -- I want to say from six to
21 four and I was on off on Fridays.

22 Q. So you did your real estate work
23 primarily in the evenings and on Friday,
24 Saturday and Sunday?

25 A. Correct.

1 Q. But there was some overlap, some
2 things you had to do during your work day;
3 correct?

4 A. Right. Yes.

5 Q. Do you know how much you made from
6 your real estate business in 2012?

7 A. No, I don't remember.

8 Q. Now, besides your selling real
9 estate in 2012, you also own some properties
10 that you lease; is that correct?

11 A. Correct.

12 Q. And how many properties do you own?

13 A. Two.

14 Q. And how long have you owned them?

15 A. I don't recall. Well, the one
16 property is 1999, which is where I live. And
17 the other one, I don't remember when I
18 purchased it.

19 Q. After 1999?

20 A. Yes.

21 Q. Now, you rent those two properties
22 out; correct?

23 A. Correct.

24 Q. And you make money on a monthly
25 basis from those?

1 A. Well, they basically pay for
2 themselves.

3 Q. You're not making money from them?

4 A. Very little.

5 Q. Okay. When you first went to work
6 for UH, what did you do?

7 A. I started out as a provider
8 enrollment clerk.

9 Q. What was your job function?

10 A. Filing, copying, I handled the out
11 of state Medicaid enrollment.

12 Q. What did that entail, the out of
13 state Medicaid enrollment?

14 A. It entailed enrolling the providers
15 in out of state Medicare.

16 Q. Filling out forms?

17 A. Medicaid, I'm sorry. Medicaid.

18 Q. Filling out forms?

19 A. Correct.

20 Q. How did you learn to fill out those
21 forms?

22 A. With the assistance of some of the
23 co-workers.

24 Q. Did you have any background in
25 Medicaid or Medicare when you came to UH?

1 A. No.

2 Q. Did you have any background in
3 reading regulations or any legal training?

4 A. No.

5 Q. When you came to UH?

6 A. No.

7 Q. Have you, since you went to UH,
8 have you taken any coursework in Medicare or
9 Medicaid?

10 A. No.

11 Q. Any coursework in regulatory
12 issues?

13 A. No.

14 Q. So basically on-the-job training?

15 A. Correct.

16 Q. At some point in time your job
17 changed at UH; is that correct?

18 A. Correct.

19 Q. When was that?

20 A. I don't recall the exact date. I
21 know that there was a supervisor who left and I
22 guess everybody got bumped up. It may have
23 been in October, I'm not sure. I think, maybe,
24 October.

25 Q. October of 2011?

1 A. Yes.

2 Q. And how did your actual job
3 function change?

4 A. Well, I started enrolling providers
5 in Medicare, Medicaid, BWC, other than out of
6 state.

7 Q. And is that what you did as of
8 full-time is enroll Medicare and Medicaid for
9 providers?

10 A. Yes, that was my primary function.

11 Q. Did you have any other functions?

12 A. I believe I still had out of state
13 Medicaid then it transitioned to each of the
14 provider enrollment reps doing their own. That
15 was basically the bulk of it.

16 Q. How did you learn the work of
17 enrolling Medicare or Medicaid, was that,
18 again, on-the-job training?

19 A. Correct.

20 Q. Now, while you were a clerk did you
21 do any billing work?

22 A. I probably did. There was some
23 tasks that were passed onto the clerk.

24 Q. And what would those tasks have
25 been?

1 A. I don't recall. I don't know that
2 there were some tasks that were passed onto me.

3 Q. It wasn't a constant thing?

4 A. No.

5 Q. And in October of 2011 or whenever
6 it is that your job changed, thereafter did you
7 do any billing work?

8 A. Well, the provider enrollment
9 department is responsible for billing.

10 Q. But did you do any billing?

11 A. I didn't do any actual billing, no.

12 Q. So is it correct to say that when
13 your job changed you became what they call a
14 specialist?

15 A. Correct.

16 Q. Who in particular helped you learn
17 or gave you the on-the-job training when you
18 became a specialist?

19 A. The other clerk. Bianca Barnes.
20 Christine Sohn. And that was pretty much it.
21 I didn't get much help from the supervisors.

22 Q. Who was your first supervisor when
23 you became a specialist?

24 A. Renee Cipriani. Well, when I
25 became a specialist, I think she was there for

1 a while, it was because she was leaving that --

2 Q. So a short time?

3 A. Correct.

4 Q. Who replaced Renee as your direct
5 supervisor?

6 A. I would say that was Tori Cardaro.

7 Q. How do you spell her last name; do
8 you know?

9 A. C-A-R-D-A-R-O, Cardaro.

10 Q. And after Cardaro?

11 A. Tori left then Sheryl Johnson.

12 Q. Now, did you have any particular
13 issues with Tori?

14 A. No.

15 Q. Did you have any personality issues
16 with Sheryl Johnson?

17 A. No, not really.

18 Q. Do you know who it is that Tori
19 reported to?

20 A. Steve Riddle.

21 Q. And how about Sheryl?

22 A. Steve Riddle.

23 Q. Did you have any issues with Steve
24 Riddle?

25 A. Issues, I mean -- no. There were

1 some things that I didn't agree with that he
2 didn't agree with, but --

3 Q. You had some disagreements with
4 him?

5 A. Right.

6 Q. But they weren't personal?

7 A. No.

8 Q. You agree they weren't personal? I
9 had a double-negative in there?

10 A. Excuse me.

11 Q. I had a double-negative.
12 You will agree with me --

13 A. That they weren't personal, right.

14 MR. HERRON: It's Friday, you are
15 allowed the occasional grammatical slipup. We
16 won't hold it against you.

17 MS. KAMINSKI: Thank you.

18 Q. Did you have any difficulty with
19 your co-workers?

20 A. No, not that I recall.

21 Q. Now, in October, November and
22 December of 2011, did you have any particular
23 work issues that you recall?

24 A. Not that I recall.

25 Q. You were filling out the enrollment

1 forms and not having any issues; is that
2 correct?

3 A. Correct.

4 Q. And at the time when you were
5 filling out those enrollment forms were you
6 using your phone number on those enrollment
7 forms?

8 A. That I don't remember. I believe I
9 was.

10 Q. In January of 2012 do you recall
11 having any particular issues at work?

12 A. No issues. I mean, not that I
13 recall.

14 Q. In February of 2012, any issues?

15 A. With the application?

16 Q. With anything at work?

17 A. In February? Yes.

18 Q. What was the issue in February?

19 A. There was an issue in February
20 where I was sitting across from a co-worker and
21 a couple times I caught him fondling himself.

22 Q. Now, had you sat across -- how long
23 had you sat across from him?

24 A. Well, we moved I guess when -- I
25 think it was after Tori left they decided to

1 move the provider enrollment department. I
2 mean, which meant the four of us from where we
3 were sitting over to where Sheryl Johnson was
4 sitting because Tori left and, I guess, Sheryl
5 wanted to keep a better eye on us.

6 Q. When was that how long, had you sat
7 there?

8 A. I think it started in January. I'm
9 not exactly sure of the date.

10 Q. But you had sat across from this
11 gentlemen for a while before the issues of him
12 fondling himself began?

13 A. No. I never sat across from him.
14 When we moved over to the area where Sheryl
15 sat, he asked if he could be next to me, across
16 from me.

17 Q. Okay. And how long after he moved
18 across from you did the fondling begin?

19 A. I can't say exactly when it
20 started. I know that I did witness him in
21 February.

22 Q. And was it once, twice, three
23 times?

24 A. A couple times.

25 Q. Two times?

1 A. Yes, at least two times.

2 Q. Would it have been more than two
3 times?

4 A. Well, I know I caught him twice.
5 It could have possibly been more than two
6 times.

7 Q. When you say you caught him, what
8 do you mean by you caught him?

9 A. Well, I noticed him going like
10 (indicating) this with himself.

11 Q. And he is at his desk?

12 A. Yes.

13 Q. Where is his desk in relationship
14 to yours?

15 A. Directly across from me in a cube.
16 We all sat in cubes.

17 Q. Now, you said that -- did he expose
18 himself?

19 A. No.

20 Q. When you say he was fondling
21 himself, what was he doing?

22 A. He had his hand motioning down at
23 his private parts.

24 Q. Did you say anything to him?

25 A. Yes, I did.

1 Q. The first time you saw it?

2 A. I don't believe it was the first
3 time. I think it was the second time that I
4 saw him. I told him, I said, you need to stop
5 doing that.

6 Q. What did he say?

7 A. He didn't say anything. He got up
8 and walked away. I don't know where he went
9 after that.

10 Q. And then did you report that?

11 A. Yes, I did.

12 Q. Who did you report that to?

13 A. I believe I reported it -- I don't
14 know who I reported it to first. I know I
15 reported to HR and to my manager.

16 Q. So to Sheryl?

17 A. Yes.

18 Q. And who in HR?

19 A. Christina Morrison.

20 Q. And how long after the second time
21 where you told him to stop doing that did you
22 report it?

23 A. I don't recall the amount of time,
24 but I know there was some time.

25 Q. Days?

1 A. Yes, days.

2 Q. Weeks?

3 A. I don't think it was more than
4 weeks. I mean -- I don't think it was weeks.

5 Q. And what made you decide to report
6 it days later?

7 A. I almost want to say that I can't
8 remember exactly, but his hand was down -- I
9 can't say he did it again, but his hand was
10 down when I turned my chair.

11 Q. How long was it between the first
12 time you saw him fondling himself and the
13 second?

14 A. I don't recall.

15 Q. And who is this that we are talking
16 about?

17 A. Paul Williams. I mean, Paul
18 Simmons.

19 Q. Had you ever had any conversations
20 with Paul before the fondling incident?

21 A. Yes. I mean, it took a while,
22 while he was sitting across from me, but it
23 took a while for me to speak to him, but I
24 eventually started saying good morning.

25 Q. Did you ever have any conversations

1 with him after you reported the fondling?

2 A. No, I tried to avoid talking to
3 him.

4 Q. And he didn't come up and try to
5 talk to you?

6 A. I almost want to say he did. I
7 remember coming into work one morning and I
8 don't think it was after I reported him, I
9 think it was after I told him to stop. He came
10 in and said -- I didn't say anything to him, he
11 said, good morning, Victoria, as if I needed to
12 speak to him and he needed for me to respond to
13 his good morning.

14 Q. Did you talk to any of your
15 co-workers about this incident?

16 A. Yes.

17 Q. Who did you talk to?

18 A. The other reps in my department.

19 Q. Who?

20 A. Bianca Barnes and Christine.

21 Q. Had they witnessed the same kind of
22 behavior?

23 A. Well, I don't think they witnessed
24 the same behavior in talking to them. I do
25 know that Bianca did mention that he did look

1 at her kind of odd.

2 Q. When did you tell Bianca about this
3 behavior of Paul Simmons?

4 A. I think it was probably at the
5 time, either when I told him to stop or maybe
6 days after.

7 Q. At the same time you reported it to
8 Sheryl and Christina?

9 A. That I'm not sure.

10 Q. How about, is there anybody else
11 other than Sheryl, Christina and Bianca that
12 you would have talked to about it?

13 A. I don't remember. Oh, I did speak
14 to -- I spoke to Sheryl. I think Sheryl said
15 she would talk to his supervisor.

16 Q. Did Sheryl take it seriously?

17 A. I would imagine. I was hoping that
18 she did.

19 Q. Pardon me?

20 A. I was hoping that she did.

21 Q. Did she say she would investigate
22 it?

23 A. We had a meeting and I don't recall
24 the date of the meeting.

25 Q. But did she say --

1 A. She said she would talk to
2 Christina they would contact his supervisor.

3 Q. Were you asked if you wanted to --
4 would move your seat?

5 A. Yes, I was.

6 Q. And what did you say to that?

7 A. I didn't want to move my seat.

8 Q. Why was that?

9 A. Well, for one, you know, we're
10 together as a provider enrollment team. And I
11 felt that I was the one to not have to need to
12 move my seat. I felt that he probably should
13 have moved his seat.

14 Q. Is that ultimately what happened?

15 A. Correct, yes.

16 Q. How long after you made the report
17 was his seat moved?

18 A. Almost, I can't say immediately,
19 but within days.

20 Q. So they took action fairly quickly?

21 A. Yes. I think it was within a
22 couple -- there was some days until they made
23 their decision or until they had a meeting with
24 him, I took some time off.

25 Q. So you took some time off after you

1 made the report?

2 A. I almost want to say yes.

3 Q. And then you came back to work once
4 you knew they moved his seat?

5 A. Correct.

6 Q. Did you ever ask them to do
7 anything other than move his seat?

8 A. No. No, I don't recall asking them
9 anything other than that. I never asked him
10 to. They suggested that -- suggested that I
11 move my seat. I said no, so they suggested
12 that they move his seat.

13 Q. Was that satisfactory to you that
14 they moved his seat?

15 A. Not really.

16 Q. Did you tell them it wasn't
17 satisfactory?

18 A. I don't recall if I did or if I
19 didn't. I honestly felt that I didn't want to
20 be in the same building. I felt uncomfortable
21 being on the same floor. They moved him to the
22 other side of the building, but then again I
23 know I was uncomfortable I would see him in the
24 hallway, see him in the elevator, see him in
25 the parking lot.

1 Q. Did he ever approach you after you
2 made the report?

3 A. No.

4 Q. Any inappropriate behavior by him
5 after the report?

6 A. No, I didn't witness anything after
7 that.

8 Q. In October, November and December
9 of 2011 were you having work performance
10 problems?

11 A. No, I don't recall any.

12 Q. You're not aware of any?

13 A. I don't recall any.

14 Q. In January did you have any work
15 performance issues?

16 A. I don't recall any.

17 Q. How about in February, any work
18 performance issues?

19 A. I don't recall any.

20 Q. Did anybody other than Christina,
21 any HR personnel, ever talk to you about your
22 report about the fondling?

23 A. You said Chris -- oh, did anyone?

24 Q. Right.

25 A. I can't --

1 Q. Anybody else from HR?

2 A. I don't recall. I think -- I don't
3 recall. I don't recall.

4 Q. Any other manager talk to you about
5 it?

6 A. There was another manager and I
7 forgot her name. She transferred over to, I
8 think, to another building, but I don't recall
9 her name.

10 Q. Did any of your direct managers
11 indicate they were unhappy with you as a result
12 of that report?

13 A. No, they didn't.

14 Q. Okay. So that's in February you
15 had reported that you had that issue at work.

16 In March did you have any issues at
17 work?

18 A. I'm not sure if that's the same
19 month that I had a review. It may have been.

20 Q. And what was the issue about your
21 review?

22 A. I had a review, performance review
23 and, you know, you discussed your weaknesses or
24 your successes and during -- right after the
25 review, I was presented with two corrective

1 actions. Documents.

2 And the one, I can't remember
3 because I asked for a copy but I wasn't given a
4 copy of it. But one was with regard to a
5 provider, it was Elizabeth Schuld. And then
6 there was another one with another provider and
7 I forgot the provider's name kind of directed
8 that I was responsible for doing something that
9 I didn't do, which caused them to lose money.

10 Q. What is it that was claimed that
11 you did?

12 A. I almost want to say it had
13 something to do with an enrollment application,
14 I didn't process it in a timely manner, the
15 Medicare application. I didn't process it in a
16 timely manner.

17 Q. You say that isn't true?

18 A. No. I went back in, compared the
19 dates. They never gave me a copy of the
20 corrective action, so I wrote down everything.
21 And I went back to my desk to verify what they
22 had on the corrective action and it didn't hold
23 any merit. And I brought it to their
24 attention.

25 Q. And who is it that had told you

1 about this corrective action?

2 A. Steve Riddle was in the office and
3 Sheryl Johnson.

4 Q. So after you went back to your desk
5 and looked at what the facts were did you
6 provide them with the facts that you learned?

7 A. Yes, I did. I can't say it was the
8 exact same day, it may have been the day after,
9 but I did provide them with facts.

10 Q. And what did they say?

11 A. That I don't remember. I asked for
12 a copy. I know at some point I asked for a
13 copy of it and they said they would have to
14 check with HR to see if they could give me a
15 copy. I refused to sign it, I know that. But
16 I do recall putting on the bottom that I
17 refused to sign and I needed to investigate
18 the -- I think, yeah.

19 Q. Did they accept the facts --

20 A. Yes.

21 Q. -- once they told you the facts
22 were wrong?

23 They did?

24 A. Uh-huh.

25 Q. So they agreed with you that that

1 had not -- that --

2 A. Yes.

3 Q. -- it was not your fault?

4 A. Yes.

5 Q. So they didn't hold steadfast that
6 somehow or other you made a mistake; right?

7 A. Can you explain?

8 Q. They did not hold steadfast to the
9 belief that you made a mistake, when presented
10 with the facts they said, yeah, you're right?

11 A. Right.

12 Q. All right. Other than the two
13 issues that were brought to your attention
14 about provider enrollment that you got
15 corrected, did you have any other issues at
16 work in March?

17 A. Not that I recall.

18 Q. In April did you have any issues at
19 work, April of 2012?

20 A. Not that I recall.

21 Q. May, any issues at work?

22 A. Not that I recall.

23 Q. June, any issues at work?

24 A. Yes.

25 Q. What were the issues in June?

1 A. In June, I almost want to say that
2 at -- there was a meeting where we discussed
3 the provider enrollment applications and we
4 were sitting there, and I believe this was in
5 June, we're sitting there and they were talking
6 about how we have to address the unbill report.
7 And how some of their applications were
8 returned denied because the provider could not
9 be reached directly.

10 And I almost want to say that this
11 was the meeting where, I think his name is
12 Jordan, were saying something to the effect
13 that -- one of the other reps said something to
14 the effect that we probably shouldn't be
15 completing these applications as we are. And
16 he mentioned something about, yeah, we are all
17 going to be walking out of here with pink or
18 orange jailhouse jumpsuits.

19 Q. What did that mean?

20 A. That we're doing something that we
21 shouldn't be doing.

22 Q. And what was that?

23 A. Well, what we were doing, we were
24 putting our personal phone numbers that were at
25 our desks, assigned to us, on the Medicare 855I

1 application.

2 Q. And the whole department was doing
3 that?

4 A. Correct.

5 Q. And had you been doing that from
6 October forward?

7 A. I'm not sure, because I know at
8 some point the 855 application changed. And I
9 know with Medicare they never called us to
10 verify this information, so to me it became
11 obvious that we were doing this when they
12 started verifying that we were filling out
13 these applications and they needed to be
14 verified.

15 Q. But were you using the same phone
16 number the entire time that you worked there?

17 A. Correct.

18 Q. And before June it hadn't created
19 an issue; is that right?

20 A. Right, because they never called us
21 and verified. Well, before June, I want to
22 say, the day that they took over, CGS took over
23 that's when we started to get the phone calls.

24 Q. Was CGS a new person that was
25 reviewing these applications?

1 A. Yes.

2 Q. Before who had reviewed them?

3 A. There was a company, I forgot the
4 name of the company. They were out of
5 Columbus, I think they were out of Columbus,
6 Ohio.

7 Q. So CGS was new, a new relationship?

8 A. Correct.

9 Q. And you say they were returning
10 applications because they couldn't verify; is
11 that correct?

12 A. Correct.

13 Q. Were there things other than the
14 phone number that were causing the verification
15 issue?

16 A. Well, the I almost want to say that
17 there was -- pretty much the phone calls. I
18 know the addresses were incorrect, too. Pretty
19 much, sometimes it could be an NPI number
20 transposed. Sometimes they needed additional
21 certifications with some of the providers.

22 Q. Now, how many applications would
23 you put in in a month's time would you say?

24 A. It is hard to say, it varies.

25 MR. HERRON: Are we in June at this

1 point?

2 MS. KAMINSKI: We were in June.

3 Q. Are you talking about 15, 20, a
4 hundred?

5 A. It could have been anywhere between
6 one and 20.

7 Q. Okay. Were they all being
8 returned?

9 A. No. Only the ones where they
10 couldn't be verified or information was
11 missing.

12 Q. All right. But you were using the
13 same phone number on all 20, let's say, that
14 you would put in in a month, let's say;
15 correct?

16 A. Correct.

17 Q. In June, of your applications, how
18 many of them were returned?

19 A. That is hard to say. I know if
20 they weren't verified they were returned. And
21 it's probably because I walked away from my
22 desk or --

23 Q. But how many would you say you had
24 an issue with in June?

25 A. It could have been anywhere between

1 three to five.

2 Q. And then were you able to fix those
3 three to five and get them verified?

4 A. Yes.

5 Q. And how did you do that?

6 A. Well, the process is, is that when
7 it needs to be redone we would take -- we would
8 -- well, we completed, we prepared the
9 application packets. We would then ask the
10 provider, when we sent the package, for their
11 signatures. We would send, maybe, three to
12 five additional signature pages for them to
13 sign. And we would have to complete a new
14 application and take one of the signature pages
15 that we had them pre-sign to attach to the
16 application to start all over again.

17 Q. On these three to five that you had
18 returns say in June, you would resubmit the
19 application. Did you use the same phone
20 number?

21 A. Correct.

22 Q. And they were accepted?

23 A. Yes.

24 Q. So you were able to fix the
25 verification problem without changing the phone

1 number; correct?

2 A. Correct.

3 Q. In June, other than this issue that
4 you had with the return of three to five
5 applications that you then were able to fix,
6 did you have any other issues at work?

7 A. In June? There was a time, and I'm
8 not sure, it may have been in June, I had an
9 issue with -- well, I was taking medication. I
10 called my supervisor, Sheryl Johnson, that
11 morning to let her know that I was going to be
12 late. I just felt a little bit drowsy and I
13 interpreted to be the medication and told her
14 that I would be in later on that day.

15 When I arrived, she came over to my
16 cube and she said to me, oh, you're here. And
17 she said that, I understand your medication is
18 causing you this drowsiness. Probably wouldn't
19 be a bad thing, or I can't say, I don't know
20 her words verbatim, but it probably would be
21 helpful to go to your doctor and have him
22 adjust your medication so it does not interfere
23 with your work.

24 I went to HR immediately after that
25 because she discussed this in public. Not in

1 her private office setting. And I spoke to
2 Christine. Christine said, well, that's
3 something she shouldn't have said in public.
4 And Christine asked me if she wanted her to
5 address it with Sheryl. And I said, no, you
6 know what, let's just see how the day goes.
7 And, I said, I'll send her an e-mail.

8 So I sent her an e-mail letting her
9 know I wasn't happy with the fact that she
10 discussed my personal business regarding my
11 medication in public. And she, in turn, sent
12 an e-mail back saying that she didn't know what
13 type of medication I was on, because I don't
14 think I was specific with her, and that she
15 wasn't aware that talking about my medication
16 was something that needed to be discussed in
17 private. And she, I guess, she apologized if
18 she was out of line.

19 Q. Did you accept that apology?

20 A. Yes, I did. To keep peace within
21 the office, yes, I did.

22 Q. And did she ever talk about your
23 medications in public again?

24 A. No, she hadn't. No.

25 Q. And she didn't know what type of

1 medication you were taking; right?

2 A. No.

3 Q. And what medication were you
4 taking?

5 A. Zoloft.

6 Q. And had you taken some
7 non-prescribed medication that morning as well?

8 A. I don't recall.

9 Q. How long had you been taking
10 Zoloft?

11 A. I almost want to say it was
12 prescribed that month. Probably immediately --
13 well, yes, it was definitely that month because
14 that's when I started to feel the effects of
15 it.

16 Q. And it made your drowsy?

17 A. Well, you know, I'm not used to
18 taking any medication. I may have attributed
19 that, it could have been the stress I was
20 undergoing as a result of having to take them.
21 I can't pinpoint exactly what it is.

22 Q. Had you had any issues at work
23 prior to June with sleeping?

24 A. There was an e-mail that I received
25 and I'm not sure if it was in May or June, but

1 I got an e-mail from Sheryl Johnson to say
2 that, if I'm going to sleep at my desk to put
3 up a sign to let everybody know that I'm on my
4 break.

5 Q. So you had been sleeping at work?

6 A. Oh, yeah.

7 Q. Prior?

8 A. Yes, everyone does. I can't say
9 everyone, I take that back. There are people
10 that sleep at their desk, typically people on
11 the second floor, at their desk or in the
12 lobby.

13 Q. And you had done that prior to
14 June?

15 A. Yes.

16 Q. And so did you thereafter, if you
17 were going to sleep at your desk, put up a sign
18 that you were on your break?

19 A. I think sometimes I did, sometimes
20 I didn't. I think at the time I told Sheryl
21 that those signs are something that we put
22 together, they aren't corporate signs -- signs.

23 Q. And so does that mean if they are
24 not corporate signs you shouldn't put one up?

25 A. Well, it's not corporate policy

1 that you put this up.

2 Q. Your direct supervisor was telling
3 you to do that, though; right?

4 A. Yes.

5 Q. Doesn't that make it kind of
6 corporate policy for your purposes?

7 A. I mean, she asked me to do it. I
8 mean, if she had supplied me the sign. This is
9 something that I created myself.

10 Q. Even if you created it yourself,
11 you, thereafter, didn't put it up every time,
12 even though she asked you to; is that right?

13 A. For the most part I did. There are
14 times when you forget to put it up or you don't
15 know how long you are going to be on break, so
16 putting it up for two seconds.

17 Q. How often did you, on break, after
18 you were asked to put up the sign, how often
19 would you say you were sleeping on your break?

20 A. Well, after she -- I can't say how
21 long. I know it was an important part for me
22 to take my break at my desk only because if I
23 didn't, I would probably miss the phone calls
24 that we would get from CGS to verify that the
25 doctor can be reached there directly.

1 Q. But how often were you needing to
2 sleep during your break?

3 A. Not often.

4 Q. Once a week?

5 A. I can't say exactly.

6 Q. Are you currently taking any
7 medications?

8 A. No.

9 Q. When did you stop taking the
10 Zoloft?

11 A. Probably after I left UH.

12 Q. Do you know when?

13 A. No, I don't know the exact time.

14 Q. Any other issues in June regarding
15 your employment?

16 A. None that I recall.

17 Q. How about July?

18 A. Yes, July.

19 Q. Any issues?

20 A. Yeah, there were issues with the
21 Medicare applications.

22 Q. Tell me about that.

23 A. I had gotten some denials on the
24 855 applications for, I want to say, for Dr.
25 Stone and Dr. Gupta.

1 Q. And what happened?

2 A. I believe I got an e-mail. We were
3 advised to put our e-mail address on the
4 applications also. I believe I got an e-mail
5 saying that the application was denied, they
6 needed verifications that the doctor can be
7 reached there directly. I think I brought it
8 to Steve's attention.

9 Q. And what happened?

10 A. At the time, I don't know who
11 initiated it, but I told him that because of
12 the meeting that we had about the pink
13 jailhouse jumpsuits that I can't continue to
14 process the applications.

15 Q. Who made the comment about the pink
16 jailhouse?

17 A. Jordan.

18 Q. Who is Jordan?

19 A. He is a provider enrollment, I'm
20 not sure if he is a specialist or if he has a
21 higher position, but he works for UHMP I worked
22 for UHMG.

23 Q. And was that a joke that he was
24 making?

25 A. It was a joke, but it was a joke

1 that shouldn't have been taken lightly.

2 Q. Did you ever do anything to try to
3 determine whether or not, in fact, putting in a
4 different phone number than CGS wanted you to
5 could lead to criminal charges?

6 A. Can you, please, repeat?

7 Q. Did you take any steps to determine
8 whether or not putting in a phone number
9 different from what CGS wanted you to put in
10 could lead to criminal charges?

11 MR. HERRON: I will object to that
12 to the extent that it calls her to divulge
13 communications she had with legal counsel.
14 Other than that she can answer.

15 A. I can't answer that because of the
16 communication.

17 Q. I'm not asking you the content of
18 the communication, I'm asking you if you took
19 any steps to determine it was criminal?

20 A. No, I can't answer that.

21 Q. You can't answer when whether you
22 took any steps?

23 A. No.

24 Q. Why not?

25 A. Because I can't divulge that

1 information.

2 Q. I'm not asking you to divulge
3 information that --

4 MR. HERRON: You can tell her
5 whether or not you consulted with an attorney
6 about it.

7 A. Yes.

8 MR. HERRON: But not what the
9 substance of the conversation was.

10 A. Yes.

11 Q. So in July you consulted with an
12 attorney?

13 A. Not in July.

14 Q. When did you first consult with an
15 attorney to determine if it was criminal to
16 fill in the wrong phone number?

17 A. Wait, was it in July? No, that
18 would have been the end of July. Maybe August.
19 I'm not exactly sure.

20 Q. July or August?

21 A. I think it was in August. Maybe
22 July. I don't want to be held down to a
23 specific date.

24 Q. And what attorney did you consult
25 with?

1 A. My attorney.

2 Q. Mr. Herron?

3 A. Yes. I don't remember the dates,
4 the exact date.

5 Q. Okay. Were you still employed?

6 A. Was I still employed at UH, yes.

7 Q. Did you at some time determine that
8 it was criminal to put the wrong phone number
9 in?

10 MR. HERRON: Objection.

11 Again, you can answer that, but you
12 don't need to -- you can answer that if you can
13 do so without disclosing confidential
14 information shared with legal counsel.

15 A. I can't disclose that without
16 consulting with my attorney.

17 Q. Did you take any steps to report
18 that to any entity, that this was criminal
19 behavior?

20 A. I wouldn't say criminal behavior,
21 inappropriate behavior. I guess, eventually it
22 would probably lead to criminal behavior.

23 Q. Did you ever call an internal
24 compliance --

25 A. I did.

1 Q. -- and tell them that you were
2 concerned that you were being asked to commit a
3 crime?

4 A. Yes, I did.

5 Q. And is that how you put it? Did
6 you tell them --

7 A. I didn't use the word crime.

8 Q. When did you make that report?

9 A. I called the UH hotline and
10 expressed my concern about completing the
11 applications, putting our phone number, which
12 is the phone number at the central billing
13 office, to Sheryl Wahl. Well, the hotline. I
14 didn't know it was specifically going to go to
15 Sheryl Wahl.

16 Q. And what happened?

17 A. She told me that it was
18 investigated by Carole Meisler and that we were
19 correct in using the UH -- in using the desk
20 number that I -- was assigned to me.

21 Q. Now, had you ever had any
22 interactions with Carol Wahl before?

23 A. Sheryl Wahl.

24 Q. Sheryl Wahl, I'm sorry.

25 A. No.

1 Q. No?

2 A. Well, interaction, not personally.

3 I believe when we were at the other office on
4 Warrensville Center Road, we were made to --
5 there was a meeting that she had with everyone
6 in the building, and we were made to watch a
7 video to tell us that if, you know, we
8 experienced anything that we felt was
9 inappropriate that we were to contact the UH
10 hotline.

11 Q. Which is what you did?

12 A. Yes.

13 Q. Now, were you aware --

14 A. Yes.

15 Q. -- that Sheryl Wahl was the
16 chief --

17 A. Compliance officer, yes.

18 Q. And you know that her whole job is
19 to try to make sure that everyone is in
20 compliance with all the regulations; right?

21 A. Correct.

22 Q. So Sheryl got back to you and told
23 you that they had investigated it and they felt
24 that this was in compliance; correct?

25 A. Correct.

1 Q. And did you every talk to Ms.

2 Meisler?

3 A. I communicated with her via e-mail.

4 Q. Did you know her?

5 A. I had seen her around the office.

6 Q. Ever have any involvement with her
7 other than just seeing her around the office?

8 A. No.

9 Q. And you also knew that she was in
10 the compliance department; correct?

11 A. Yes.

12 Q. Were you aware that she had called
13 CGS herself?

14 A. Well, she told us she did.

15 Q. Once the compliance department told
16 you that they felt that putting your phone
17 number on there was appropriate and that they
18 had contacted CGS about it, did you believe
19 them?

20 A. No.

21 Q. Why not?

22 A. Because I had in black and white
23 denial letters. She told us several scenarios
24 that would probably -- well, I wouldn't say
25 probably, that CGS said would work in us

1 completing the applications. However, I had it
2 in black and white that what she told us
3 contradicted what I had from CGS myself.

4 And I felt that she wasn't probably
5 explaining to CGS, because she didn't do the
6 actual -- she didn't perform the actual job,
7 maybe she wasn't explaining it to them in
8 detail.

9 Q. So you felt you knew better?

10 A. Yes. Yes. It was part of my job
11 function that I did daily.

12 Q. Now, so in July how many
13 applications would you say you had rejected
14 because of the phone number?

15 A. I don't know specifically, but I
16 know I did have the -- I would say at least
17 three to five, because I know I did have the
18 one from Stone, Gupta and maybe one other.

19 Q. And how many applications would you
20 have put in in that month?

21 A. Anywhere from one to 20.

22 Q. You don't know how many?

23 A. No.

24 Q. Well, you know it was more than one
25 if you had three to five that came back?

1 A. Correct. Correct.

2 Q. So still some of the applications
3 were being accepted; correct?

4 A. Yes. They were able to verify
5 because I was there at my desk to answer the
6 phone when they called.

7 Q. And when they called if they had a
8 question or whatever, you could answer it;
9 correct?

10 MR. HERRON: Objection. Vagueness
11 on that question as to what they would ask.

12 Q. If CGS and called and had a
13 question about the application you could answer
14 it?

15 A. No, not all, it just depends on
16 what the question was.

17 Q. You could answer it or find the
18 answer?

19 MR. HERRON: Same objection.

20 A. Not necessarily true.

21 Q. Tell me the type of question CGS
22 would have when they called.

23 A. The main question that they ask is
24 if the doctor can be reached there directly.
25 And that was the main question.

1 Q. And what was your answer to that?

2 A. Yes.

3 Q. And then what would you do, would
4 you contact the doctor?

5 A. No, we didn't have to contact
6 because they already verified that they could
7 reach the doctor directly.

8 Q. But if the doctor needed to be
9 contacted, if CGS or Medicare needed to contact
10 the doctor and they called you, you would get
11 ahold of the doctor; correct?

12 A. It wasn't our responsibility to get
13 ahold of the doctor.

14 Q. If somebody called you and said, we
15 have this application, we need to speak with
16 the physician, what would you do?

17 A. They asked if they can verify.
18 They never asked if they could get ahold of
19 them. They only asked if they could verify.

20 Q. The information that you got about
21 the doctor to fill out the application came
22 from the doctor's office?

23 A. Which information are you talking
24 about?

25 Q. When you are filling out the

1 application.

2 A. Well, when we are filling out the
3 application -- can I see a copy of the
4 application, please?

5 - - - - -

6 (Thereupon, Defendant's Exhibit 1,
7 Medicare Enrollment Application, was
8 marked for purposes of
9 identification.)

10 - - - - -

11 Q. Let me show you what we have marked
12 as Defendant's Exhibit 1. What are you looking
13 at?

14 A. I'm looking at page five.

15 Q. Okay.

16 A. Okay. Now, they would call to
17 verify --

18 MR. HERRON: Page five, you are
19 referring to 1284 at the bottom?

20 MS. KAMINSKI: Right.

21 A. Yes.

22 They would call to verify that the
23 doctor can be reached at this number. If there
24 was anything that they needed regarding this
25 application would be an automatic denial.

1 Q. But let's just say something was
2 missing and the thing missing, we'll use page
3 five, was date of birth, that you didn't have
4 the date of birth, you had forgotten to put it
5 in there for some reason. You would be able to
6 get the date of birth and fill in the
7 application; correct?

8 A. Yes, from either, one, their
9 profile sheet or curriculum vitae.

10 Q. Because you would have access to
11 that; right?

12 A. Yes.

13 Q. Any of this other information that
14 is on this application that is now marked as
15 Defendant's Exhibit 1 that they need about the
16 doctor you would have been able to get that
17 information if it was missing from the
18 application; correct?

19 A. Correct.

20 Q. And if it was something that wasn't
21 on their profile or on their curriculum vitae
22 you would be able to call their office to get
23 something to tell them --

24 A. Yes.

25 Q. -- what to fill out; correct?

1 Yes?

2 A. Yes.

3 Q. So you knew how to contact the
4 doctor's office; correct?

5 A. Yes. Most of the time, and I would
6 say a good portion of the time.

7 Well, the Social Security we got
8 from the profile sheet. If we needed the MPI,
9 we would go to the MPI website. If we needed
10 the DEA number, we would go to the DEA website.
11 The license number, we would go to the license
12 website.

13 So there was very little
14 communication with the provider.

15 Q. Sure.

16 But, for instance, whether or not
17 that had had any convictions for various
18 misdemeanors you would have to talk to the
19 doctor?

20 A. I never asked them that.

21 Q. You didn't? You just assumed it
22 was no?

23 A. They were supposed to fill out this
24 application when we sent it to them so that
25 should have already been filled out.

1 Q. So if it wasn't you would send it
2 over to them to get it filled out?

3 A. Never had I asked them whether
4 they --

5 Q. I'm saying, if this application --

6 A. If it was incomplete we would send
7 them the application back.

8 Q. Right.

9 A. We wouldn't ask them over the
10 phone.

11 Q. So if there was some information
12 needed you would send it back to them --

13 A. Right.

14 Q. -- for them to fill it in?

15 A. Correct.

16 Q. You knew how to get ahold of the
17 doctors in order to work with them to get these
18 things filled out correctly; correct?

19 A. We would try to get ahold of them.
20 Because they work, we don't know their hours,
21 we don't know the shifts that they work, we
22 don't know the location that they are at, we
23 would --

24 Q. It might have been an effort?

25 A. Yes, it was.

1 Q. Did you ever have an application
2 that you couldn't fill out because you couldn't
3 find all the information?

4 A. There probably was, yes.

5 Q. Which one was that?

6 A. I don't recall.

7 Q. What year was that in --

8 A. I don't recall.

9 Q. -- was that in 2011?

10 A. I don't recall.

11 Q. You don't recall?

12 A. No.

13 Q. What did you do, then, if you
14 couldn't fill out the whole application, what
15 did you do with that applications?

16 A. We would return it to the provider.

17 Q. You would return it back to the
18 doctor; right?

19 A. Uh-huh.

20 Q. Is that a yes?

21 A. Yes.

22 Q. Now, other than preparing this
23 Medicare enrollment application to send over to
24 the doctor's office to be submitted, you didn't
25 have any other job functions as a specialist;

1 did you?

2 A. Yes, we did.

3 Q. What was that?

4 A. I don't recall.

5 Q. You don't remember?

6 A. No. Inputting ORG numbers in, I do
7 know that. Inputting the Medicaid application
8 into an electronic website. Once we got the
9 PINs back from Medicare, after their
10 application was verified, we would input into
11 the system so that we could start billing
12 Medicare. But for the bulk of it, it was
13 completing the applications.

14 Q. Okay.

15 A. Checking to see -- we had reports
16 to check to see which doctors were still
17 lingering with their enrollment applications.
18 I'm trying to take myself through a
19 daily routine.

20 Once we got the PINs we would put
21 it into the IDS systems so that the claims
22 could start dropping.

23 Q. Okay. So in July were you able to
24 fix the three to five that were not accepted
25 originally?

1 A. I was able to fix, did I fix it, I
2 brought it to the attention of Sheryl Johnson
3 and Steve Riddle that -- because the reason why
4 it was denied is because I walked away from my
5 desk and when Medicare called I wasn't there to
6 verify that they could be reached at the
7 number.

8 So it went into my -- you know, my
9 voicemail kicked in. And my voicemail states
10 my name, it says, Victoria Johnson of the
11 provider enrollment department. So they denied
12 it because they wanted a number where the
13 doctor's personal service would identify their
14 name as opposed to my name.

15 Q. After you identified this problem
16 were you able to fix those three to five
17 applications?

18 A. I don't believe I did. I told them
19 I can't verify. And I did with an e-mail. I
20 told them, I can no longer do this.

21 Q. Now, did you -- were some of these
22 applications that were denied, did you have no
23 phone number listed on the application?

24 A. No, these applications we put
25 together, we copy them and so it was just easy

1 to just put the phone number there and keep the
2 same phone number.

3 Q. So all of the applications that you
4 had that were denied in July, it's your belief
5 that you had a phone number on the form?

6 A. Yes.

7 Q. So you told Steve and Sheryl that
8 you were no longer going to put that phone
9 number on in July?

10 A. Correct.

11 Q. Is that correct?

12 A. Uh-huh.

13 Q. What happened next?

14 A. I know that, that I communicated
15 with some of the people at CGS, Shamekia
16 McLaughlin, and just to make sure that I'm
17 following the procedure of CGS.

18 I asked them to just clarify in
19 their e-mail, again, that what I was doing was,
20 well, what the UHMG was doing was improper. I
21 forwarded that information to my supervisors.
22 And I know at one point they asked me to --
23 verbally they came over to me and asked me to
24 put Sheryl's number as opposed to my number.

25 Q. Did you do that?

1 A. I told them, thank you for letting
2 me know that I could do that, but I still felt
3 that it was improper.

4 Q. And so did you do it?

5 A. No, I didn't.

6 Q. What happened next?

7 A. I know sometime during the
8 communication that this was going on I had
9 asked them, I think I asked, I almost want to
10 say I asked Sheryl, I'm sorry, Carole, if she
11 had a person that she spoke to at CGS.

12 Q. And?

13 A. I don't think she ever responded to
14 the e-mail.

15 Q. What happens next?

16 A. I know -- I can't say the chain of
17 events exactly. Sometime in July Steve sent an
18 e-mail saying that it's come, you know, to his
19 attention that people were sleeping at their
20 desk and that we were no longer able to sleep
21 at our desk anymore.

22 Q. Okay. And then what happened?

23 A. The -- I think it was the day of
24 the 25th or the 26th. It was the day that I
25 was called, I was told by Sheryl Johnson that

1 she wanted to speak to me inside the HR office.

2 Q. And?

3 A. So I met her at the HR office. She
4 was there and Christina Morrison was there and,
5 eventually, Steve Riddle came in. And they
6 talked about the Medicare applications.

7 They also said that, you know,
8 because I sent them an e-mail letting them know
9 that since I'm no longer able to sleep at my
10 desk that, you know, just to be aware that I
11 did inform them that I was taking medication
12 and that is something that was out of my
13 control.

14 And they said, well, because you
15 are taking the medication and you are falling
16 asleep at your desk, we want you to go see the
17 EAP counselor.

18 Q. And next?

19 A. They told me that they made an
20 appointment for me to me that day. And I told
21 them, I said, you know what, I can't do this
22 anymore. I discussed going on FMLA with my
23 private doctor, Dr. Headen, and I said I am
24 going to leave the office to have him initiate
25 the paperwork for FMLA. So I left the office.

1 As I was leaving the office
2 Christina Morison, I called, she was trying to
3 hand me the paperwork for the EAP counselor.
4 As I was going to my desk, here, are you
5 refusing this, get a witness, get a witness.
6 And it was very humiliating.

7 Q. What happens next?

8 A. I packed my -- I got my purse.
9 Left the office. Went to -- I think I went to
10 my doctor's office. I called him or called him
11 or I'm almost certain that I went to the office
12 that day. Told him that I want him to, you
13 know, start the FMLA paperwork. Yeah, I
14 dropped it off. He filled it out and returned
15 it to me via e-mail. And that I didn't --
16 well, he returned it to me via e-mail. I went
17 to my e-mail account at the office and I was
18 shutdown. It was shutdown. Called the IT
19 department to find out what was going on and it
20 was shutdown.

21 After that morning I went to my
22 doctor's office to pick up the paperwork. I
23 got there about 6, 6:30. And on my way back
24 from the office I got a call from Christine and
25 she said that we overnighted the EAP -- no, she

1 didn't overnight, they sent via messenger the
2 EAP paperwork. So I told her I didn't get it.

3 I live in a two-family. I had
4 picked up my mail, I didn't see anything. I
5 don't know whether it was on the inside of the
6 house or outside of the house. She said, well,
7 it should be at your house. When I looked
8 inside the hallway and it was there. The
9 hallway or -- either the outside door, yeah, it
10 was the outside door.

11 And she said, you are to take that
12 paperwork and go to the EAP office. It was
13 9:30, I think that the appointment was at 10.
14 It was 9:30, I said, well, can you call them
15 and tell them I am running a little late.

16 I went to the EAP office and met
17 with Kathy Springer. I gave her the paperwork,
18 which was not completed. And she said, well,
19 let me contact your supervisor and have her
20 complete the paperwork. And she said, well,
21 you're here because you are unfit for duty.
22 And they said that it is because you were
23 asleep at your desk.

24 MR. HERRON: Do you have a point
25 where I could take a quick five-minute break?

1 MS. KAMINSKI: Let her finish the
2 answer, then we can.

3 Q. Go ahead.

4 A. That's how I ended up at the EAP.

5 Q. Unfit for duty because you were
6 sleeping?

7 A. Yes.

8 Nothing in my personnel file prior
9 to that about unfit for duty or sleeping.

10 Q. So when you --

11 MR. HERRON: She finished her
12 answer, can we take that --

13 MS. KAMINSKI: In just a second.

14 MR. HERRON: -- five minute, two
15 cups of coffee kicking in break?

16 MS. KAMINSKI: Just a second.

17 Q. When you went to see Kathy Springer
18 did you see anybody else besides her that day?

19 A. Well, Jill was there.

20 Q. Anybody else, any doctors?

21 A. No.

22 MS. KAMINSKI: Okay.

23 (Short recess had.)

24 Q. So you went to see Kathy Springer?

25 A. Uh-huh.

1 Q. What happens next?

2 A. She told me I was there because I
3 was referred for falling asleep at my desk.
4 She asked if I take a drug -- well, I explained
5 to her that I felt that I was there because of
6 the Medicare applications.

7 She asked that I complete a drug
8 screening and one for alcohol. And she also
9 told me that I was going to be -- I got a
10 referral to see Dr. Pallas, the psychiatrist.

11 Q. Anything else happen with Kathy?

12 A. She asked that I sign five of the
13 medical release forms, which I did. I handed
14 her the FMLA paperwork that I received from my
15 doctor and took the test.

16 Q. What test?

17 A. The drug screening and the
18 breathalyzer test.

19 Q. Then what happens?

20 A. She gave me an appointment, I think
21 it was within two days. I know that it was
22 originally sent for July 31st, I think I ended
23 up going on August 2nd to see Dr. Pallas.

24 Q. So between the time you talked to
25 Kathy Springer and you go to see Dr. Pallas,

1 did you have any further interaction with
2 anybody from UH?

3 A. No, I don't believe so. I know --

4 Q. Did you go see your private doctor?

5 A. No.

6 Q. So then you went to see Dr. Pallas?

7 A. Yes.

8 Q. He did some tests?

9 A. Yes, he gave me, I think it was a
10 two or three hour test.

11 Q. And, then, did you talk to him as
12 well?

13 A. Yes.

14 Q. Anything else?

15 A. He tested me for some other stuff,
16 a short test. Asked me to count backwards from
17 a hundred by sevens, you know.

18 I explained to him about the
19 Medicare applications and how I was asked to
20 complete them with my phone number. I
21 explained to him about the scenario with Paul
22 Simmons. And that was pretty much it, you
23 know.

24 He -- I don't have -- I mean, he
25 said that he can't -- he said he doesn't doubt

1 that they are filling out the applications
2 incorrectly. That's all I remember.

3 Q. And then during June and July were
4 you working as a realtor?

5 A. I don't believe so.

6 Q. Is that because you couldn't or
7 because you didn't have any work to do?

8 A. Probably because I didn't have any
9 work to do. I don't recall when I took my
10 license back out of escrow.

11 Q. Because you could have physically
12 been able to do work as a realtor; is that
13 correct?

14 A. Yes. Physically, yes.

15 Q. Emotionally?

16 A. Yes.

17 Q. All right. So then you go to see
18 Dr. Pallas in August, what's the next thing
19 that happens?

20 A. After that, I believe I got an
21 e-mail or phone call from Kathy Springer, she
22 told me Dr. Pallas recommend that I go see
23 another psychiatrist, which I did.

24 Q. Who was that?

25 A. Dr. Dutton.

1 Q. And when did you see Dr. Dutton?

2 A. I don't recall the exact date, but
3 I know that I went to see him and he gave me
4 some paperwork for me to return to work, I
5 think it was in September, it may have been
6 after the holiday. After the Labor Day
7 holiday.

8 Q. So he felt that you were able to
9 return to work; correct?

10 A. Correct.

11 Q. Did you agree with him?

12 A. Yes.

13 Q. And did you return to work in
14 September?

15 A. No, I didn't.

16 Q. Why not?

17 A. Well, they told me that I needed a
18 return to work form, which I was expecting to
19 get from Kathy Springer.

20 Q. And what happened?

21 A. I never got the form. She told me
22 -- what did she tell me? She needed to get
23 some more information from the doctors before
24 she would write me a return to work.

25 Q. And do you know if your doctors

1 provided her that information?

2 A. I don't think they did.

3 Q. Do you know why not?

4 A. Well, I do recall seeing an e-mail
5 from Dr. Dutton to say that I am no longer
6 under his care. I do recall speaking to Dr.
7 Dutton he said he doesn't want to -- I think I
8 asked him for some information, he said he
9 doesn't want to be involved or something like
10 that. I can't recall exactly.

11 Q. Did you go back to your regular
12 physician and ask him for a return to work?

13 A. No, I didn't. I was expecting to
14 get that from Kathy Springer after my
15 evaluation.

16 Q. So Kathy never gives that to you?

17 A. No.

18 Q. So you never go back to work?

19 A. No.

20 Q. Did you call anybody to try to
21 figure out how to get back to work?

22 A. I was hoping to hear back from
23 Kathy Springer, since this was initiated with
24 EAP.

25 Q. Do you finally hear from her?

1 A. I think -- I believe she sent me an
2 e-mail saying she can't because she needed to
3 speak to the doctor. So I was like in a fix,
4 when do I go back to work?

5 Q. Okay. So then what happens?

6 A. I was -- well, I was placed on
7 unpaid administrative leave. And while on
8 unpaid administrative leave I applied for
9 unemployment.

10 Q. When did you apply for
11 unemployment?

12 A. I almost want to say that it was in
13 August. I don't know the exact time.

14 Q. And what happened with your
15 unemployment request?

16 A. I was granted unemployment
17 benefits.

18 Q. And when did you get unemployment
19 benefits?

20 A. I don't recall the exact time.

21 Q. For how long; do you know?

22 A. For a short period.

23 Q. So you were getting unemployment in
24 August, September, what happens next about your
25 going back to work?

1 A. I received -- let me see, I'm
2 trying to figure out the dates. I received a
3 letter October 1st telling me that I'm supposed
4 to report back to work on October 8th.

5 Q. Was this good news to you?

6 A. Yes.

7 Q. What happens?

8 A. Prior to my going back to work I
9 sent, I think it's Christine, an e-mail. I'm
10 not sure if it was an e-mail or letter, telling
11 her that I will report to work on October 8th
12 and that I didn't want to be asked to complete
13 the applications. I wanted to be treated
14 fairly. I almost want to say I asked her to
15 give me something regarding Paul Simmons.

16 Q. Did you draft that letter by
17 yourself?

18 A. Yes.

19 Q. Okay. So you sent her a letter?

20 A. Yes.

21 I went to work and explained to her
22 -- I went to work that morning and I think it
23 was around, I believe it was at 6, there was no
24 one there, no management. So I went to my desk
25 and I told her that -- while I was actually

1 doing something, but I don't believe I could
2 back on my computer. But doing some of the
3 things that I could possibly do, maybe filing,
4 I don't recall exactly what it was, until I had
5 the talk with Christine.

6 Q. And who did you have a talk with?

7 A. Christine and Angelique, I don't
8 remember her last name.

9 Q. Did you know Angelique before that
10 meeting?

11 A. Well, yes, she was the person who
12 was standing at the door the day that I left to
13 go to my doctor's appointment.

14 Q. Okay. And what was your talk with
15 Christine and Angelique?

16 A. Again, about the Medicare
17 applications. I told them that I didn't want
18 to complete the application with putting my
19 personal phone number in section 2B.

20 If the application is completed, if
21 the application is completed by someone who
22 needed to be contacted by CGS, that should have
23 been done in section 13. Section 13th. The
24 contact person should be in section 13
25 regarding a person you need to contact

1 regarding this application.

2 Q. Okay. And so you told them that
3 you weren't going to fill it out the way they
4 wanted you to; correct?

5 A. Correct.

6 MR. HERRON: Objection.

7 Go ahead.

8 Q. And they made it clear how they
9 wanted you to fill it out; right?

10 A. Well, yes, they made it clear how
11 they wanted it filled out. They made it clear
12 that if we were to answer the phone and we
13 identified the phone number for CGS, that we
14 were to answer the phone as though we weren't
15 the billing department.

16 Q. Okay. And, well, you didn't answer
17 the phone billing department, you answered it
18 -- well, that you were --

19 A. Sometimes I said, this is Victoria.
20 Sometimes I said, doctor's office. Sometimes
21 -- I don't believe I said provider enrollment,
22 that would be a clear indication that we were
23 the provider enrollment department and not the
24 doctor's office.

25 Q. And so you indicated to them that

1 you weren't going to do it the way that they
2 wanted you to; correct?

3 A. Correct.

4 Q. And what happened?

5 A. She told me that if I needed 24
6 hours to reconsider to let her know. And I
7 told her that I did not need 24 hours to
8 reconsider. And she said, well, if that's the
9 case, then we have to terminate you. She also
10 gave me a letter to the response that I sent.

11 Q. Anything else happen?

12 A. No, I went and packed my stuff at
13 my desk and left.

14 Q. Did you fill out a new application
15 for unemployment or were you on unemployment
16 already?

17 A. No, I wasn't on unemployment.

18 Q. Your unemployment had ended before
19 October 8th?

20 A. Wait. My unemployment had ended --
21 well, I didn't claim benefits for the week that
22 I went back to work.

23 Q. Did you reapply, then, for
24 unemployment?

25 A. Yes.

1 Q. Did you get unemployment?

2 A. Yes.

3 Q. Since that time have you looked for
4 a job?

5 A. Yes. Since I was unemployed I have
6 looked for a job. Right now I'm working as a
7 realtor.

8 Q. Where --

9 A. It's rather hard to explain, also,
10 to potential employers the reason why I was
11 released from UH.

12 Q. And where have you looked for a
13 job?

14 A. Title companies.

15 Q. Which ones?

16 A. Administrative. I don't remember
17 the title companies.

18 Q. Do you keep a copy of your
19 applications?

20 A. Well, most of them were by my
21 calling. Most of my inquiries of jobs were my
22 calling. A good portion of it was by phone.

23 Q. Did you ever fill out an
24 application?

25 A. I don't recall. I can't recall.

1 Q. You can't recall if you filled out
2 an application for a job?

3 A. I almost want to say that most of
4 the contacts were by phone.

5 Q. Where have you looked beside title
6 companies?

7 A. Some businesses in the area that I
8 live.

9 Q. What businesses?

10 A. I don't recall.

11 Q. Do you recall a single -- a single
12 name of anyplace you have looked for work?

13 A. No.

14 Q. How about in the last month; do you
15 recall?

16 A. I have been self-employed as a
17 realtor.

18 Q. Have you looked for work in the
19 last month?

20 A. No.

21 Q. When did you stop looking for work?

22 A. I can't recall.

23 Q. Was it sometime in 2013 that you
24 stopped looking for work?

25 A. I don't recall.

1 Q. How much money did you make last
2 year as a realtor?

3 A. I don't recall. Probably, maybe,
4 40,000.

5 Q. So the market has picked up?

6 A. Yes. No, benefits, but --

7 Q. And you still have your two rental
8 properties?

9 A. Correct.

10 Q. And do you have properties listed
11 now?

12 A. Yes.

13 Q. How many properties do you have
14 listed now?

15 A. I would say probably about six or
16 seven.

17 Q. And who holds your real estate
18 license?

19 A. VS Realty.

20 Q. Pardon?

21 A. VS Realty.

22 Q. Is that a family owned business?

23 A. No.

24 Q. Or a business you had a
25 relationship with?

1 A. No.

2 Q. And you make all commission?

3 A. Yes.

4 Q. And so far in 2014 how have you
5 done?

6 A. I've had a couple transactions
7 close. Of course, with real estate, you don't
8 get paid weekly, so only if the property
9 closes.

10 Q. So how much have you made this
11 year?

12 A. I would say probably about 6,000
13 dollars.

14 Q. And you are going into the busy
15 season of the spring?

16 A. Well, our busiest season, believe
17 it or not, is between January and March, we
18 have a lot of investors. I mean, a lot of the
19 houses that I sell, they are bank-owned
20 properties.

21 Q. Do you anticipate that you are
22 going to be able to do as well this year as you
23 did last year?

24 MR. HERRON: Objection.
25 Speculative.

1 Go ahead.

2 A. I can't say. My broker always
3 tells me this market, you know it is here one
4 day and tomorrow it could be something
5 completely different.

6 Q. At least it is robust enough that
7 you are not looking for another job; correct?

8 A. Right now, no.

9 Q. In response to some interrogatories
10 that I sent to you and you've responded to I
11 asked you who had knowledge of the facts
12 alleged in your complaint?

13 A. Uh-huh.

14 Q. Or the damages? And one of the
15 people that you listed was Kara Ladaika, who is
16 that?

17 A. Kara Ladaika is the, I believe, she
18 is the FMLA person for UH.

19 Q. So she would have knowledge of your
20 FMLA request?

21 A. Yes, she does.

22 Q. Anything else that relates to this
23 case?

24 A. I don't think she is the person
25 from short-term disability, just FMLA.

1 Q. How about Lisa Edgehouse, what does
2 she know?

3 A. I know that -- I think I saw an
4 e-mail from her, I don't recall. She is with
5 UH.

6 Q. Jill Fulton?

7 A. She was the nurse practitioner at
8 my meeting with Kathy Springer.

9 Q. Other than that meeting with Ms.
10 Springer, would she have any other knowledge?

11 A. I think pretty much, that was it.

12 Q. Chip Fienga, what does he know?

13 A. Oh, I don't know. I think he was
14 on an e-mail regarding my FMLA.

15 Q. Renee Cipriani. Why did you list
16 her?

17 A. She was my previous supervisor.

18 Q. And what does she know about the
19 facts of the complaint?

20 A. She probably -- shouldn't be much.
21 She was -- she wasn't around. She wasn't the
22 supervisor at the time.

23 Q. Teresa Linehan or Linehan, what
24 does she know?

25 A. Teresa Lineham, I forgot her role.

1 Probably on an e-mail.

2 Q. Cynthia Laterna, why would you list
3 here?

4 A. E-mail. That was an e-mail.

5 Q. Josh Shkolnik?

6 A. Was on an e-mail. These are HR
7 people.

8 Q. Jacqueline Edmonds?

9 A. Jacqueline Edmonds. I think that
10 was an e-mail also.

11 Q. You listed the name out of people
12 that were on various e-mails?

13 A. Right.

14 Q. Jacqueline Adamich?

15 A. She was in an e-mail. She
16 processed my enrollment application, not my
17 enrollment application, my employment
18 application.

19 Q. Jane Reese?

20 A. Jane, she is probably on an e-mail
21 because I think I met her at a meeting.

22 Q. Do you know what meeting?

23 A. I think it was at the Federal
24 Building. I think that was her name.

25 Q. In the course of this case?

1 A. Yes.

2 Q. Kathleen Springer, other than the
3 she is the EAP person; right?

4 A. Correct.

5 Q. Corporate screening, why did you
6 list them as having --

7 A. Corporate screening, I believe
8 that's with regard to my employment
9 application.

10 Q. Un Kim, it's because she worked at
11 CGS?

12 A. Yes, I had communication with her
13 at CGS.

14 Q. Andrew Baumann, same thing, you had
15 communications?

16 A. Yes.

17 Q. Shamekia?

18 A. McLaughlin.

19 Q. Same thing?

20 A. CGS.

21 Q. What about Paula Paty?

22 A. That is Shamekia's supervisor.

23 Q. Did you ever talk to Paula?

24 A. Yes.

25 Q. And then there is some other

1 supervisor at CGS you don't remember the name?

2 A. I spoke to -- I think Paula Paty
3 moved to another department. I called to speak
4 to a supervisor, I don't recall her name, and
5 then she referred me to the compliance office
6 of the CGS.

7 Q. When was this?

8 A. I don't recall.

9 Q. And do you know the compliance
10 officer's name?

11 A. I don't recall her name.

12 Q. Have you had any communications
13 with CGS since you left the employ of UH?

14 A. Yes.

15 Q. When was that?

16 A. I don't recall the date.

17 Q. In the last month?

18 A. No, not in the last month.

19 Q. In the last year?

20 A. Yes, within the last year.

21 Q. And who did you communicate with?

22 A. Both the supervisor and the
23 compliance officer.

24 Q. When you made those phone calls?

25 A. Yes.

1 Q. But you don't know their names?

2 A. I have it written down. I want to
3 say, I don't know why Miss White rings a bell.

4 Q. Where do you have it written down
5 at?

6 A. I can't find it.

7 Q. Why did you call the supervisor?

8 A. I called them regarding the
9 application. I called them regarding the
10 application.

11 Q. And why while you were not working
12 at UH were you calling them regarding the
13 application?

14 A. Well, I was hoping, I don't know,
15 maybe to shed some light on what's going on
16 or -- I don't recall.

17 Q. What were you told?

18 A. Well, the supervisor told me that
19 she would have the compliance officer call me.
20 I explained to her that I was terminated from
21 UH. And she said something about her calling
22 me back, she would check some of the
23 applications that were denied and she would
24 call me back, but she never did.

25 Q. Did you ever talk to the compliance

1 officer?

2 A. Yes, I did.

3 Q. Is that the one who said she would
4 call you back?

5 A. Yes.

6 Q. The supervisor who didn't know
7 anything and got you over to the compliance
8 officer?

9 A. Well, she -- I believe she looked
10 at that application -- I don't recall what
11 happened, but I know she referred me to the
12 compliance officer.

13 Q. Then the compliance officer never
14 called you back?

15 A. No. She asked me the name of some
16 providers that may have been on the
17 applications that we were completing and she
18 never called me back.

19 Q. And she what?

20 A. She never called me back.

21 Q. Did you give her the name of
22 providers?

23 A. Yes, I do recall the provider.

24 Q. What name did you give her?

25 A. I don't recall the doctor's name.

1 I think it was an anesthesia provider, wait a
2 minute, Matthew Kellems.

3 Q. Why did you choose Matthew Kellems
4 to give to the compliance officer?

5 A. His name stood out in my mind.

6 Q. Why was that?

7 A. It took a while to process his
8 application.

9 Q. And why was that?

10 A. He had to provide documentation --
11 he had to provide documentation. I think he
12 was terminated from UH. And then he was
13 brought back to UH.

14 Q. Were you able to confirm that your
15 view that it was CGS' view that UH was using
16 the wrong phone number when you talked to the
17 compliance officer?

18 A. She never called me back. The only
19 documentation I have is what I received as far
20 as denial letters.

21 Q. While you were employed at UH,
22 other than talking to CGS about what their
23 requirements were with respect to the phone
24 number, did you talk to anybody else to find
25 out what was the --

1 A. Oh, yes, I did.

2 Q. What else?

3 A. I.L. Donerson.

4 Q. Pardon me?

5 A. I.L. Donerson.

6 Q. Who is that?

7 A. A 20-year old plus friend.

8 Q. He is a friend of yours?

9 A. Yes.

10 Q. And why would you have talked to
11 him about it?

12 A. He worked in Washington, D.C. at
13 the time. I told him, you know, about the
14 process. And, well, he told me that he worked
15 at HHS. And he told me that he would check
16 their integrity manual to see if we should or
17 should not be filling out these applications.

18 He sent me something, I believe he
19 sent me something from the integrity manual to
20 show that the doctor needed to be reached
21 directly and it had to be the personal service.
22 And he advised me to -- that I probably
23 shouldn't continue to do it because there is
24 usually an audit that is done every three years
25 and they should be checking those applications

1 to be sure that the doctor's number is on there
2 as opposed to how they did it.

3 Q. What, is it I.L.?

4 A. I.L., yeah. I, period, L, period.

5 Q. What does the I stand for?

6 A. That's just his name, I.L.

7 Q. Donerson, D O N --

8 A. E-R-S-O-N.

9 Q. How do you know I.L. Donerson?

10 A. I have been knowing him for 20
11 years.

12 Q. Where did you meet him?

13 A. In New York City.

14 Q. What is his job at HHS?

15 A. He was a contractor.

16 Q. Contractor doing what?

17 A. I don't know specifically what he
18 was doing.

19 Q. Is he a builder, contractor,
20 somebody who pounds nails or --

21 A. No, he processes grants.

22 Q. So he isn't in the section that
23 works with the manuals; is that correct?

24 A. Correct.

25 - - - - -

1 (Thereupon, Defendant's Exhibit 2,
2 Physical Exam dated January 25,
3 2012, was marked for purposes of
4 identification.)

5 - - - - -

6 Q. I'm going to show you what I have
7 marked as Exhibit 2. These are records from
8 your doctor's office.

9 How long had you seen, is it Dr.
10 Headen?

11 A. Uh-huh.

12 Q. Yes?

13 A. Yes.

14 Q. How long have you been a patient of
15 Dr. Headen's?

16 A. I don't recall.

17 Q. Was it before January of 2012?

18 A. That I don't recall.

19 Q. I see that you sought, this is a
20 physical exam that Dr. Headen did on January
21 25th, 2012; do you see that?

22 A. Yes, I see it.

23 Q. And it says here that the reason
24 you're there is because you have a rash; is
25 that correct?

1 A. Yes.

2 Q. And that you are without complaints
3 except for that rash, is that correct, at that
4 time?

5 A. According to this report.

6 Q. So in January of 2012 you weren't
7 having issues at work that required you to seek
8 medical attention; is that correct?

9 A. Correct.

10 - - - - -

11 (Thereupon, Defendant's Exhibit 3,
12 Phone Message dated January 26,
13 2012, was marked for purposes of
14 identification.)

15 - - - - -

16 Q. And then I will show you what I
17 have marked as Exhibit 3.

18 A. Uh-huh.

19 Q. Do you recall why you would have
20 called Dr. Headen on January 26th?

21 A. No, I don't.

22 - - - - -

23 (Thereupon, Defendant's Exhibit 4,
24 Adult Sick Visit Form, was marked
25 for purposes of identification.)

1 - - - - -

2 Q. Showing you what has been marked as
3 Exhibit 4.

4 Do you recall that you saw Dr.
5 Headen on February 13th, 2012?

6 A. Yes.

7 Q. And that you report that you had
8 increased anxiety over a situation at work.
9 Was that correct?

10 A. Correct.

11 Q. And it says that you are having
12 decreased sleep and increased anxiety; is that
13 correct?

14 A. Correct.

15 Q. Had you ever had an episode of
16 anxiety that caused you to seek medical
17 attention before this time?

18 A. I don't recall.

19 Q. You don't recall?

20 A. No, I don't think I did. I think
21 this probably happened after the episode with
22 Paul.

23 Q. Right.

24 Before this time, before February
25 13th, 2012 had you ever sought medical

1 attention for anxiety?

2 A. No, I don't think so.

3 Q. You would know if you had; wouldn't
4 you?

5 A. Yes.

6 Q. So is the answer no?

7 A. No.

8 Q. It says that you feel threatened at
9 work. Why did you feel threatened at work?

10 A. I felt threatened at work because
11 of the good morning hello. Like I told you, I
12 felt like I was almost forced to say hello to
13 him. He came into my face and said, good
14 morning, Victoria. And I felt that threatened.

15 Q. And that had happened by February
16 13th?

17 A. Yes.

18 Q. Anything other than him leaning
19 over and saying hello that made you feel
20 threatened?

21 A. Well, that specifically made me
22 feel threatened.

23 Q. It says that had you a meeting
24 scheduled at work with HR and does not feel
25 comfortable returning to work until the

1 situation is resolved?

2 A. Correct.

3 Q. Had you already reported to HR by
4 this time?

5 A. Yes.

6 Q. Now, it says down there that you
7 didn't want any meds and wouldn't take a
8 referral to a counselor. Is there a reason why
9 you wouldn't go see a counselor if you were
10 having all this anxiety?

11 A. I was hoping that it would probably
12 pass or I just didn't want to go see a
13 counselor.

14 Q. So why did you go to the doctor
15 about the anxiety if you weren't going to take
16 medications and wouldn't go see a counselor?
17 What did you think the doctor could do for you?

18 A. I don't know. This is the first
19 time I have ever been in this situation.

20 Q. Then he suggested that you take
21 medication and you decided not to?

22 A. I don't think he suggested any
23 medication at that time.

24 Q. What relaxation techniques did he
25 give to you?

1 A. I don't recall.

2 Q. Did you do them?

3 A. I don't recall if he gave me any.

4 Q. What were the symptoms of your
5 anxiety?

6 A. Just basically feeling overwhelmed
7 about the entire situation.

8 Q. And how did that manifest itself
9 for you, feeling overwhelmed?

10 A. By his presence, pretty much.

11 Q. But what was your reaction, how did
12 you experience the anxiety?

13 A. Feeling overwhelmed. Just feeling
14 overwhelmed.

15 - - - - -

16 (Thereupon, Defendant's Exhibit 5,
17 Phone Message dated February 14,
18 2012, was marked for purposes of
19 identification.)

20 - - - - -

21 Q. Showing you what I have marked as
22 Exhibit 5. This is the next day, February
23 14th. It says, patient walked in and asked for
24 a call from you.

25 Do you recall walking into your

1 doctor's office?

2 A. I think at the time he wasn't able
3 to see me. I'm not sure.

4 Q. Do you recall why you were back in
5 his office a day later?

6 A. Probably because he didn't answer
7 the phone call.

8 Q. So since he didn't answer the phone
9 you went to his office?

10 A. Yes.

11 Q. And what were you needing from him
12 either on the phone or in person?

13 A. I don't know at the time. I mean,
14 it could have been just someone to talk to.

15 Q. If you needed someone to talk to
16 why did you reject his offer of a counselor?

17 A. I don't know. I don't have any
18 clue.

19 Q. You what?

20 A. I have no clue.

21 Q. You see down there under plan of
22 action, she will ask for a transfer.

23 What does that mean?

24 A. I think we probably talked about me
25 going to a different department.

1 Q. You talked about that with your
2 doctor?

3 A. Possibly, yes, if it's listed here.

4 Q. And this had nothing to do with, in
5 February, this has nothing to do with what
6 phone number you are putting on the Medicare
7 applications; right?

8 A. No.

9 Q. You would agree with me that it
10 doesn't?

11 A. It doesn't.

12 - - - - -

13 (Thereupon, Defendant's Exhibit 6,
14 Phone Message dated March 2, 2012,
15 was marked for purposes of
16 identification.)

17 - - - - -

18 Q. Showing you what I have marked as
19 Exhibit 6.

20 Between March, excuse me, between
21 February 14th and March 2nd did you seek
22 medical care from anybody other than Dr.
23 Headen?

24 A. Wait. What are the dates?

25 Q. Between what is now marked as

1 Exhibit 5 and Exhibit 6. Exhibit 5 is 2/14,
2 2012, you made the phone call to him and then
3 walked into his office. And the next note we
4 have is March 2nd.

5 Did you seek medical attention from
6 anybody within those two dates?

7 A. I really don't recall.

8 Q. Do you have any doctor other than
9 Dr. Headen?

10 A. No.

11 Q. And on 3/2 it says a fax number
12 there and it says, need form faxed. She left
13 and her result from testing any problem please
14 call.

15 What form did you need fax?

16 A. Need form faxed she left and her
17 results from testing. I don't know, that may
18 have been a physical. I'm not sure.

19 Q. Whose fax number is that?

20 A. On Exhibit?

21 Q. Six.

22 A. 201 -- I believe that's my fax
23 number.

24 Q. At home?

25 A. No, at the office.

1 Q. So you were asking him to fax a
2 form to your office fax; is that right?

3 A. Yes. I don't know, maybe I asked
4 for FMLA then, I'm not sure. I'm trying to
5 figure out which form that is.

6 Q. Why would you have been asking for
7 FMLA on March 2nd?

8 A. It may have been because of the
9 anxiety.

10 Q. So you felt you couldn't do your
11 job?

12 A. I was upset at the fact that he
13 fondled himself.

14 Q. I understand.
15 But did you feel that you could do
16 your job?

17 A. I don't know. I don't recall. I
18 know I was visibly, I mean, upset.

19 Q. And so you don't know what form
20 this is?

21 A. No, I don't recall.

22 Q. And you were asking your doctor to
23 fax something to work.

24 Were you the only person who had
25 access to that fax?

1 A. 4288, I'm trying to figure out,
2 4288. I know that we had specific fax numbers
3 that would come to our desk. I'm not sure if
4 this was one of our faxes that we could just go
5 ahead and print it from our desk.

6 Q. But you don't know for sure?

7 A. I don't remember. Maybe it was
8 e-fax.

9 - - - - -

10 (Thereupon, Defendant's Exhibit 7,
11 Phone Message dated March 8, 2012,
12 was marked for purposes of
13 identification.)

14 - - - - -

15 Q. Let me show you what I have marked
16 as Exhibit 7.

17 A. Oh, the health assessment form.

18 Q. This is two days or, excuse me, six
19 days later, March 8th?

20 A. Oh, I remember.

21 Q. What is this?

22 A. This probably, hold on a second,
23 this was, I believe, the health assessment
24 form, yes.

25 Q. What health assessment was that?

1 A. There was a program that UH had
2 where they would give you ten dollars in your
3 paycheck if you completed a health assessment.
4 I guess it was a proactive thing for you to --
5 yes, this is what it was. It was a health
6 assessment form.

7 In order for us to get the ten
8 dollar credit, we had to get the form from the
9 doctor to show that we went there.

10 Q. So it was a wellness program?

11 A. Yes. Yes. Now, I remember.

12 Q. And you believe now that you have
13 seen that on Exhibit 7, that Exhibit 6 would
14 have been referring to the same form; is that
15 correct?

16 A. I almost think it should have been,
17 yes, because I know that I had to request it a
18 couple of times.

19 Q. Okay. And so you were asking that
20 the doctor verify that you were a patient of
21 his --

22 A. Right.

23 Q. -- under his care?

24 A. Get my ten dollars a week or
25 whatever it was. I think we had to do it by a

1 certain time, there was a deadline.

2 - - - - -

3 (Thereupon, Defendant's Exhibit 8,
4 Phone Message dated March 20, 2012,
5 was marked for purposes of
6 identification.)

7 - - - - -

8 Q. Okay. Let me show you what I have
9 marked as Exhibit 8.

10 On March 20th you left a message
11 for him to call you. It says, plan of action,
12 having anxiety over work situation, schedule an
13 appointment, is what you were told.

14 Do you recall making this phone
15 call?

16 A. Uh-huh.

17 Q. Yes?

18 A. I don't recall making it, but I see
19 here that I did call.

20 Q. What would be the anxiety that you
21 were having on March 20th; do you know?

22 A. The only thing that I could
23 probably think of is when I had my review and
24 I'm presenting the two write-ups. That's the
25 only thing that I could think of.

1 Q. That created anxiety for you?

2 A. Yeah. Yeah, someone accuses you of
3 doing something.

4 Q. Was your anxiety alleviated when
5 you gave them the fax and they acknowledged
6 that you had not made the mistakes?

7 A. Somewhat.

8 - - - - -

9 (Thereupon, Defendant's Exhibit 9,
10 Adult Sick Visit Form dated June 11,
11 2012, was marked for purposes of
12 identification.)

13 - - - - -

14 Q. I'm going to show you what I have
15 marked as exhibit 9.

16 Do you know if you ended up making
17 an appointment between March 20th and June
18 11th?

19 A. Like I said, the appointment when I
20 was prescribed the Zoloft, I don't recall the
21 date of that.

22 Q. Exhibit 9 shows that you are
23 getting Zoloft?

24 A. Okay then.

25 Q. So in between March 20th when you

1 call and they say to schedule an appointment
2 and June 11th, did you see any health care
3 providers?

4 A. No, not that I recall.

5 Q. So you didn't do as they requested
6 and schedule an appointment on March 20th; is
7 that correct?

8 A. Correct.

9 Q. So then on June 11th you said you
10 were having increased stress at work and that
11 your nerves were bad.

12 What does that mean? What were the
13 symptoms of your nerves being bad?

14 A. Well, it says here, decreased
15 interest, appetite.

16 Q. Was that true? Did you have a
17 decreased appetite?

18 A. Yes.

19 Q. Had you lost weight?

20 A. I don't remember.

21 Q. You were having decreased
22 concentration; is that accurate?

23 A. Uh-huh.

24 Q. You have to say yes or no for the
25 court reporter.

1 A. Yes.

2 Q. And your job requires you to
3 concentrate?

4 A. Oh, sure, yes.

5 Q. So a decrease in concentration
6 would make your job performance less than it
7 should be; would you agree?

8 MR. HERRON: Objection.

9 A. Excuse me?

10 MS. KAMINSKI: Want to read it back
11 to her?

12 (Record read.)

13 A. At peaks, yes. Peaks and high
14 times and low times. I was still able to
15 complete my job.

16 Q. Okay. And you say that these
17 symptoms were present since 2/12 after the
18 event with your co-worker.

19 So you had been in this where you
20 had decreased concentration and decreased sleep
21 and a depressed mood since 2/12; is that
22 correct?

23 A. Correct.

24 Q. And did you go to use the EAP at
25 all at work during that time?

1 A. No.

2 Q. Did you go back to HR and report
3 that you were still having difficulty with the
4 fact that gentleman was still working on the
5 same floor?

6 A. No.

7 Q. You didn't have any dizziness it
8 says; is that correct?

9 A. No, no dizziness.

10 Q. Now, at this time you decided to
11 take Zoloft; is that correct?

12 A. Yes.

13 Q. And the Zoloft you were given, were
14 you given less than 50 milligrams to begin with
15 then you build up to 50 milligrams or did you
16 start with the 50 milligrams?

17 A. Zoloft at 50 milligrams. I think
18 it was decreased to 25.

19 Q. Did you start lower than 50,
20 though?

21 A. I don't recall.

22 Q. Did you decide that you would see a
23 counselor?

24 A. No, I didn't decide that I would
25 see a counselor.

1 Q. What changed your mind about taking
2 the Zoloft?

3 A. Well, my family was concerned. As
4 I have always been a healthy person, you know.
5 They just felt that the stress was causing me
6 to take the medication and they were concerned
7 about that.

8 Q. They were concerned that you were
9 taking Zoloft?

10 A. That how -- yeah, you know, I'm a
11 healthy person, all of the sudden now I'm
12 taking medication, I guess. I'm not the type
13 of person that would take the medication.

14 Q. So let me ask you. My original
15 question was, why did you decide to take the
16 Zoloft and you said it was because your family
17 was concerned, but now it sounds like your
18 family didn't want you to take it?

19 A. Why I decided to take it?

20 Q. Yes.

21 A. I felt I needed to. Once I
22 expressed to my family that I was taking it,
23 they were concerned about my taking it.

24 Q. Now, as a result of decreased
25 sleep, were you feeling sleepier at work before

1 June 11th of 2012?

2 A. Was I feeling sleepy at work? I
3 don't think -- it was at home.

4 Q. No. I am saying, because you had
5 decreased sleep, were you feeling more tired at
6 work?

7 A. I wouldn't say that.

8 Q. You don't think you were sleeping
9 more often --

10 A. No.

11 Q. -- before June 11th?

12 A. No.

13 Q. Now, as of June 11th, 2012 you're
14 still saying that your depression and issues
15 are really tied to the fondling event; correct?

16 A. Yes. Again, because he's still on
17 the same floor.

18 Q. Right.

19 A. You know, I still see him in the
20 elevator.

21 Q. Okay.

22 A. We have the issue of the
23 applications being denied.

24 Q. So by June 11th is that part of
25 what you thought was your problem, was the

1 applications being denied?

2 A. Probably a combination of
3 everything.

4 Q. You didn't mention that to your
5 doctor; did you?

6 A. About the application?

7 Q. Yes.

8 A. I could have. I don't recall, I
9 could have though.

10 Q. It says here that the symptoms were
11 present since 2/12. Do you see that?

12 A. Uh-huh.

13 Q. That doesn't -- with the event with
14 the co-worker. It doesn't indicate they
15 increased because of additional problems or
16 anything; does it?

17 A. No.

18 Q. Do you remember whether or not you
19 discussed the applications with your doctor or
20 not?

21 A. I do not.

22 Q. So the best memory you have is
23 recorded here on Exhibit 9; isn't it?

24 A. Can you repeat that?

25 Q. Your memory is no better than what

1 is on Exhibit 9; correct?

2 A. Correct.

3 - - - - -

4 (Thereupon, Defendant's Exhibit 10,
5 Adult Sick Visit Form dated June 19,
6 2012, was marked for purposes of
7 identification.)

8 - - - - -

9 Q. Show you what I have marked as
10 Exhibit 10. This is eight days later you go
11 back to the doctor; correct?

12 A. Uh-huh.

13 Q. Yes?

14 A. Let me just look at the dates,
15 which are 6/19, uh-huh.

16 Q. So yes?

17 A. Yes.

18 Q. And it says that you have
19 improvement in your anxiety and depression, the
20 Zoloft is working; correct?

21 A. Correct.

22 Q. You reported that the Zoloft made
23 you feel tired; correct?

24 A. Made her feel tired, yes.

25 Q. And but you also say that you have

1 some sinus congestion and your ear is clogged;
2 correct?

3 A. Correct.

4 Q. So it could have been that that was
5 making you feel a little tired; correct?

6 A. My ear being clogged?

7 Q. And the sinus, yes.

8 A. I can't attribute to my sinuses
9 making me feel, but, I don't know maybe was,
10 maybe wasn't.

11 Q. It says you report HA yesterday,
12 which has resolved, what is HA; do you know?

13 A. Reported HA yesterday, which has
14 resolved, no.

15 Q. It says you had blurry vision for a
16 few days. Do you recall that?

17 A. Yes.

18 Q. That would make it difficult to be
19 filling out the forms; yes?

20 A. I don't think it hindered my
21 ability to fill out my applications.

22 Q. Okay.

23 A. My -- I never got anything from HR
24 that I had a problem with filling out the
25 applications, they just said that I resisted

1 filling out the applications.

2 Q. Did you take the Claritin-D that
3 was prescribed?

4 A. Yes, I did.

5 Q. Did it cause you to feel drowsy?

6 A. I don't recall.

7 - - - - -

8 (Thereupon, Defendant's Exhibit 11,
9 Phone Message dated July 17, 2012,
10 was marked for purposes of
11 identification.)

12 - - - - -

13 Q. I will show you what I have marked
14 as Exhibit 11.

15 Between 6/19, 2012, which is
16 Exhibit 10 and 7/17, 2012, which is Exhibit 11
17 do you recall going to any physicians?

18 A. Yeah, I think I went to, what's is
19 name, Dr. Abbass.

20 Q. Who is Dr. Abbass?

21 A. He is an ENT doctor.

22 Q. Why did you go to Dr. Abbass?

23 A. Because of my ears being clogged.

24 Q. This would seem to say on the plan
25 of action, she will see an ENT, ears are still

1 clogged.

2 So it looks like maybe you went to
3 see Dr. Abbass after this?

4 A. Correct. I'm not sure if you have
5 to get a referral to Dr. Abbass, but I know I
6 went to see Dr. Abbass.

7 Q. Your ears being clogged doesn't
8 have anything do with your work anxiety;
9 correct?

10 A. No.

11 Q. And you didn't call because you
12 were still having anxiety; correct?

13 A. To Dr. Abbass?

14 Q. To Dr. Headen.

15 I mean, it doesn't indicate that on
16 this phone message; does it?

17 A. No.

18 Q. And was your anxiety better at this
19 time as a result of the Zoloft?

20 A. I believe it was.

21 Q. Okay.

22 - - - - -

23 (Thereupon, Defendant's Exhibit 12,
24 Phone Message dated July 26, 2012,
25 was marked for purposes of

1 identification.)

2 - - - - -

3 Q. Showing you what's been marked as
4 Exhibit 12. This is about nine days later.
5 The message just says, please call.

6 Do you recall why you would have
7 been calling the doctor on 7/26?

8 A. Which doctor is this?

9 Q. Headen.

10 A. No, I don't recall.

11 Oh, this is the day -- the 26th. I
12 believe this is the day that I was on my way to
13 the appointment when I told him I was going to
14 get my FMLA.

15 Q. Okay. Let me show you Exhibit 13
16 and you can look at those together.

17 - - - - -

18 (Thereupon, Deposition Exhibit 13,
19 FMLA Form dated July 26, 2013, was
20 marked for purposes of
21 identification.)

22 - - - - -

23 A. Yes.

24 Q. This is a form that was filled out
25 by Dr. Headen on 7/26; correct?

1 A. Correct.

2 Q. And this is a form that says you
3 need to be off work; correct?

4 A. Yes. He said it's probably best
5 that you take some time off until August 8th.

6 Q. Now, when he did that, you didn't
7 have an appointment with him on 7/26; did you?

8 A. No.

9 Q. And, as I can tell from the
10 records, the last time that you had talked to
11 him about anxiety or stress was more than a
12 month prior to him filling out that you needed
13 to take off work; is that correct?

14 A. Yes, if that's what you are saying.

15 Q. Well, the last record I see him
16 talking about your stress is on June 19th;
17 right?

18 A. Yes, if that's what you have.

19 Q. So without seeing you or talking to
20 you further he determined that you should be
21 off work until August 8th; is that correct?

22 A. Correct.

23 Q. How did he make that determination;
24 do you know?

25 MR. HERRON: Objection.

1 A. I don't know.

2 Q. Did you go pick this form up from
3 his office?

4 A. The morning of the 27th he e-mailed
5 it to me.

6 Q. And had you dropped this form off
7 at his office or e-mailed it to him?

8 A. I want to say I dropped it off at
9 his office.

10 Q. But you didn't see him?

11 A. No.

12 Q. Did you fill out any portion of --
13 did you fill in the date of 8/8?

14 A. No, he filled that in.

15 Q. Did you tell him how long you
16 wanted to be off?

17 A. I don't remember that. It must
18 have been a two-week period.

19 Q. And why did you decide you needed
20 to have him fill out this form when you were
21 asked to take a -- you decided to ask him to
22 fill out this form when you were asked to take
23 a fit for employment exam; correct?

24 A. Wait. Repeat that.

25 Q. You went to work that day and they

1 asked you to go to the EAP to get a fit for
2 work exam; correct?

3 A. Correct.

4 Q. In response to being asked to go
5 get this fit for work exam you said you were
6 going to go on FMLA?

7 A. I said I would talk about going on
8 FMLA.

9 Q. But you talked about that a month
10 earlier; right?

11 A. I don't know exactly when we talked
12 about it but, yes, we did talk about it.

13 Q. In between that time you started
14 the Zoloft and you told me that your anxiety
15 was much better on the Zoloft; correct?

16 A. Yes, I felt it was much better, but
17 there are things during the -- well, the one
18 situation after that happened with Sheryl,
19 telling my information, I -- that was a peak.
20 You know, the conversation with -- the
21 conversation in the office about the pink
22 jailhouse jumpsuit, that was a peak. You know,
23 it was just up and down.

24 Q. So why on this day did you decide
25 you needed to have FMLA, you agreed with them

1 you weren't fit to work?

2 MR. HERRON: Objection.

3 Q. Is that right?

4 A. Excuse me?

5 Q. You agreed that you were not fit to
6 work?

7 A. I wouldn't say that I wasn't fit to
8 work. I just felt that I was having anxiety
9 placed on me at that time.

10 Q. You were having what?

11 A. Anxiety placed on me at that time.

12 Q. An anxiety placed on you, is that
13 what you are saying?

14 A. Not an anxiety, but anxiety placed
15 on me at that time.

16 Q. Such that you couldn't work;
17 correct?

18 A. Probably for that day, maybe the
19 day after, but --

20 Q. But here you are saying that you
21 can't work for two weeks?

22 A. That's what the doctor said.

23 Q. But the doctor said that without
24 ever talking to you; correct?

25 A. Well, I'm pretty sure with my

1 appointments he probably felt that, that I
2 needed the time off.

3 MR. HERRON: Are you getting close
4 to a lunch break?

5 MS. KAMINSKI: As soon as we get
6 done with the medical records?

7 MR. HERRON: Is that going to be in
8 the next five minutes or --

9 MS. KAMINSKI: I don't know,
10 because I never know how long the answers are
11 going to take. I am never good at guessing
12 those things.

13 Q. Did you take the full -- you were
14 going to take the full two weeks off; correct?

15 A. Yes. According to this paperwork.
16 And this is not FML -- this isn't approved.

17 Q. Correct.

18 A. This is just --

19 Q. This is what you are asking for?

20 A. Well, what he suggested I have.

21 Q. But you have to ask for?

22 A. I have to agree with what he is
23 asking.

24 Q. And you did?

25 A. Yes.

1 - - - - -
2 (Thereupon, Defendant's Exhibit 14,
3 Phone Message date August 10, 2012,
4 was marked for purposes of
5 identification.)

6 - - - - -

7 Q. Showing you what I have marked as
8 Exhibit 14. This is August 10th?

9 A. Uh-huh.

10 Q. So about 14 days later, FYI she got
11 an extension on her return to work until 9/1?

12 A. Uh-huh.

13 Q. Do you see that?

14 A. Uh-huh.

15 Q. Yes?

16 A. Yes.

17 Q. And who gave you that extension?

18 A. Doctor, I believe that must have
19 been Dr. Dutton, who was -- I was told to see
20 -- Dr. Pallas told me to see another
21 psychiatrist for an extension of two weeks.

22 Q. Okay. And it says, I spoke to the
23 patient and she is seeing a psychiatrist.

24 That is Dr. Dutton; correct?

25 A. I don't think -- this had to be --

1 I don't know who this came from because I don't
2 think Dr. Dutton responded to any of these.

3 Q. I am just saying that Dr. Headen is
4 noting that you are seeing a psychiatrist, and
5 that would refer to Dr. Dutton that you are
6 seeing; correct?

7 A. Correct.

8 Q. How many times did you see Dr.
9 Dutton?

10 A. Once, probably twice. Maybe once.
11 I can't remember. It was more than once.
12 Maybe once or twice.

13 Q. You are not sure whether it's once
14 or twice?

15 A. I know it is definitely once.

16 Q. Did he prescribe any change in the
17 Zoloft?

18 A. No, that was -- no, he didn't
19 prescribe anything.

20 Q. Did he suggest a change in the
21 Zoloft?

22 A. No, he didn't.

23 Q. Did he tell you that he wasn't
24 going to continue to see you?

25 A. Yes, he did.

1 Q. When did he tell you that?

2 A. He told me that he could no longer
3 see me as a patient because he was on the board
4 at UH.

5 Q. And what difference does that make?

6 A. I don't know, you would have to ask
7 him.

8 Q. And when did he tell you that, at
9 the time that you saw him?

10 A. Yes.

11 Q. And is he the one that gave you the
12 extension until 9/1?

13 A. I believe his -- I don't have it in
14 front of me.

15 Do you have the documentation?

16 Q. I do not.

17 A. I believe it was until 9/4.

18 Q. Okay.

19 (Discussion had off the record.)

20 MS. KAMINSKI: Did you produce the
21 Dr. Dutton records?

22 MR. HERRON: No. Because Dr.
23 Dutton is not responding to our subpoena.

24 MS. KAMINSKI: Okay.

25 MR. HERRON: Why is he not doing

1 that, I don't know.

2 MS. KAMINSKI: Okay.

3 MR. HERRON: We want them as much
4 as you do.

5 MS. KAMINSKI: All right.
6 Maybe we can work on that.

7 - - - - -

8 (Thereupon, Defendant's Exhibit 15,
9 Geauga Medical Center Report dated
10 August 17, 2012, was marked for
11 purposes of identification.)

12 - - - - -

13 Q. All right. Let me show you what I
14 have marked as Exhibit 15.

15 This says August 17th, 2012 you
16 have a tonsillectomy; is that correct?

17 A. Uh-huh.

18 Q. Yes?

19 A. Yes.

20 Q. So while you were --

21 A. I think this may have been -- I
22 know that -- I think I got a return to work on
23 9/1, but I'm not sure, from Dr. Abbass.

24 Q. So it was Dr. Abbass that gave you
25 an extension; is that correct?

1 A. Yes, I believe he did.

2 Q. Because you were going to have the
3 tonsillectomy?

4 A. Correct.

5 Q. So while you were out on FMLA you
6 had the tonsillectomy; correct?

7 MR. HERRON: Objection.

8 A. I was --

9 MR. HERRON: Go ahead. We are not
10 accepting her assumption in the question that
11 you were out on FMLA.

12 A. I don't believe I was on FMLA. It
13 wasn't approved.

14 Q. Okay. While you had a request for
15 FMLA pending?

16 A. Right, pending.

17 Q. You had the tonsillectomy then;
18 correct?

19 A. Yes, but the return to work was
20 within the time from 9/1 and Dr. Dutton's was
21 9/4.

22 - - - - -

23 (Thereupon, Defendant's Exhibit 16,
24 Ahuja Medical Center Report dated
25 October 7, 2012, was marked for

1 purposes of identification.)

2 - - - - -

3 Q. Let me show you what I have marked
4 as Exhibit 16.

5 A. Do you have the return to paperwork
6 from Dr. Abbass?

7 Q. No.

8 MS. KAMINSKI: Do you have Dr.
9 Abbass' records?

10 MR. HERRON: I didn't know about
11 Dr. Abbass until about two minutes ago.

12 MS. KAMINSKI: Okay.

13 Q. This is October 7th of 2012 medical
14 record and it appears that you had a sinus
15 test; is that correct?

16 A. Uh-huh.

17 Q. Yes?

18 A. Uh-huh.

19 Q. You have to say yes or no, you
20 can't uh-huh or uh-huh.

21 A. Yes.

22 MR. HERRON: She is supposed to
23 advise you of that at the beginning of the
24 deposition, to give verbal responses and not
25 the uh-huhs and huh-uhs or gestures.

1 A. Yes.

2 MR. HERRON: Please remember to
3 give the verbal responses.

4 THE WITNESS: Uh-huh.

5 MR. HERRON: Yes?

6 THE WITNESS: Yes.

7 Q. It says here that you were supposed
8 to have an outpatient CAT scan of her sinuses
9 next week and that you feel it is an urgent
10 matter and you wanted it that night.

11 What made it so urgent that you had
12 to have it that night?

13 A. I want to say it's because of the
14 dizziness. I believe it was because of the
15 dizziness because I know I went to the ER at
16 Bedford and I was experiencing dizziness. But
17 I don't believe -- I don't recall. I think
18 they couldn't do the CAT scan there. I don't
19 recall.

20 MS. KAMINSKI: We would like those
21 ER records as well.

22 MR. HERRON: Send me a follow-up so
23 that I remember to follow-up, otherwise I can
24 guarantee you I will forget.

25 Q. And the results of the CAT scan

1 were that they didn't find any particular
2 structural issues --

3 A. Right.

4 Q. -- with regard to your sinuses;
5 correct?

6 A. Correct.

7 Q. So their recommendation was
8 basically just a follow-up with Dr. Abbass;
9 correct?

10 A. Yes. I think he gave me -- I think
11 he gave me something, I'm not sure. That was
12 from Dr. Abbass. He gave me the Afrin and the
13 Flonase, yes.

14 Q. You were already taking Keflex and
15 Doxycycline; correct?

16 A. That was from Bedford, the doctor
17 there gave me that.

18 Q. Now, did the sinus issues and the
19 dizziness lead you to be somewhat tired?

20 A. No.

21 Q. Were you still, as of 10/7, 2012,
22 suffering from the anxiety?

23 A. Yes, because I was out of -- I
24 believe I was still -- when was this done?
25 When was this done?

1 Q. 10/7, 2012.

2 A. 10/7, probably. I went back to
3 work 10/8.

4 Q. So were you still suffering from
5 anxiety?

6 A. Probably minor.

7 Q. Did you continue to take the Zoloft
8 once you were on leave?

9 A. I don't think so, because the
10 medications I have -- the medications that I
11 told him that I was taking and I don't see
12 Zoloft here.

13 Q. Do you know when you quit taking
14 the Zoloft?

15 A. Not exactly.

16 Q. But it was sometime when you were
17 on leave?

18 A. Yes.

19 MS. KAMINSKI: Okay. Let's take a
20 lunch break.

21 How long would you like, Counselor?

22 MR. HERRON: How long do you need?

23 MS. KAMINSKI: Half hour.

24 MR. HERRON: That sounds good.

25 (Lunch recess had.)

1 - - - - -
2 (Thereupon, Defendant's Exhibit 17,
3 e-mail Correspondence from
4 Bronxvikki, was marked for purposes
5 of identification.)

6 - - - - -

7 Q. I will show you what I have marked
8 as Exhibit 17. It started at page three of
9 that e-mail. Do you see there is an e-mail
10 from you on February 10th at 8:23 a.m.? Do you
11 see that?

12 A. Uh-huh.

13 Q. Yes?

14 A. Yes.

15 Q. And the bronxvikki, that's you;
16 correct?

17 A. Correct.

18 Q. And that's your home e-mail?

19 A. Correct.

20 Q. On February 10th were you at home?

21 A. I believe I probably was. Let me
22 see. Yes.

23 Q. And is it the day before that you
24 had reported the issues about Paul's behavior?

25 A. Possibly. I don't know the exact

1 date.

2 Q. You see that then on page 2, in the
3 middle there, Christina says that, in the
4 interim is a possible to move Victoria?

5 A. Uh-huh.

6 Q. And then she says, Victoria how
7 long have you been sitting next to Paul?

8 A. Uh-huh.

9 Q. And then ask you a question about
10 if you're sure it was lingering fondling or
11 more like a lot of adjusting.

12 Do you see that?

13 A. Yes.

14 Q. And then you write back on the
15 first page of Exhibit 17 at 9:38 and you say
16 you haven't been feeling well.

17 What were the problems that you
18 were having that you weren't feeling well?

19 A. I don't remember. I know that I
20 was upset when I talked to him. When I talked
21 to him again he stormed -- I told him to stop.
22 He stormed out of the office, but it was quite
23 unusual because Paul, he kept a lot of papers
24 on his desk. And I want to say this is the day
25 that when I told him to stop and he stormed out

1 of the of the office, he took all of the papers
2 that were on his desk and threw them in the
3 garbage can. And I think that upset me because
4 I didn't know his state of mind.

5 Q. But that had happened three or four
6 days before this time; right?

7 A. Yes.

8 Q. You see, you are responding on
9 Sunday and the questions were asked on Friday,
10 so this has gone all day Friday, Saturday and
11 Sunday and you are just then responding.

12 Do you see that?

13 A. Wait. Which is -- can you?

14 Q. The Friday one that asks you the
15 questions is February 10th.

16 A. Yes.

17 Q. At 9:16 a.m.

18 A. Uh-huh.

19 Q. And your response is February 12th
20 at 9:38 p.m.?

21 A. That's a Sunday, yes.

22 Q. Okay. So it's been a couple of
23 days before you're responding to it, that's why
24 you apologize that you are just getting back.

25 Do you see that?

1 A. Yes.

2 Q. You say you want to stay in your
3 cube. Do you see that?

4 A. Yes.

5 Q. Why did you want to stay in your
6 cube?

7 A. Because I was part of the provider
8 enrollment team and I felt that I was the
9 victim. You know, he asked to sit next to me
10 so I -- I believe, in my mind, that he should
11 be the one to move.

12 Q. And how do you know that he asked
13 to sit?

14 A. I found out from another -- from
15 Becky.

16 Q. Becky who?

17 A. I don't remember Becky's last name.

18 Q. Where did Becky work?

19 A. She worked in the same on the same
20 floor. I believe she worked for the UHMP side.

21 Q. Same as Paul?

22 A. Same as Paul, yes. It was Becky
23 she told me that because I had talked to her.
24 I talked to Bianca and I talked to Christine
25 about his behavior.

1 Q. And what did Becky tell you?

2 A. She said, wow, she said, you know,
3 what I think it was at that time she told me,
4 wow, as a matter of fact, he was the one who
5 had requested to sit across from you.

6 Q. How would she know that?

7 A. I don't know.

8 Q. And then you see that on Monday
9 Christina tells you that she knew about some
10 other positions. Had you indicated to her that
11 you might be interested in other positions?

12 A. I want to say that she may have
13 suggested that and I said, probably, sure.

14 Q. Well, remember that you told your
15 doctor that you were thinking about maybe a
16 transfer?

17 A. Right.

18 Q. So had you indicated?

19 A. He may have suggested that also. I
20 don't know. I don't remember.

21 Q. Had you suggested to Christina that
22 you would be interested in a transfer?

23 A. Yes.

24 Q. Did you follow-up on these job
25 potentials that Christina is listing here on

1 Exhibit 17?

2 A. I know I applied for a job
3 position. I think I applied for two of them.
4 I don't recall the dates of them.

5 Q. What happened with your
6 applications?

7 A. They sent me something that they
8 choose another candidate.

9 Q. Did you have interviews?

10 A. No.

11 Q. But you see that Tina is saying
12 that she will help support your application;
13 right?

14 A. Yes.

15 Q. There's nothing in Tina's e-mail
16 here to you that looks like she is angry or
17 upset that you made this report; is there?

18 MR. HERRON: Objection.

19 Answer if you know.

20 A. It doesn't look like from the
21 e-mail.

22 Q. And then you respond with, thanks,
23 give Kim my number, which would further
24 indicate that you were interested in pursuing
25 other opportunities inside of UH; correct?

1 A. Yes.

2 Q. Did you have your cubicle before
3 Paul moved to his?

4 A. Yes. I believe when I moved he was
5 still sitting across from Steve Riddle.

6 - - - - -

7 (Thereupon, Deposition Exhibit 18,
8 e-mail Correspondence dated March
9 19, 2012, was marked for purposes of
10 identification.)

11 - - - - -

12 Q. Showing you what I have marked as
13 Exhibit 18.

14 Turn to page two of that, you will
15 see that it's an e-mail chain that starts off
16 with the end of the last one where you ask Tina
17 to give Kim your number, page two of it.

18 Do you see your February 13th,
19 11:19 a.m. e-mail?

20 A. Uh-huh, yes.

21 Q. That picks up where we left off on
22 the last e-mail. Do you see that?

23 A. Yes.

24 Q. And it appears from this e-mail
25 that you were trying to call Kim; correct?

1 A. Yes.

2 Q. At some point Christina, at the
3 bottom of page one, suggests to you, because
4 you have been so emotional that you might go to
5 EAP to get some help. Do you see that?

6 A. From Christine at 7:12 p.m.?

7 Q. Right.

8 A. EAP is a wonderful benefit that we
9 have at UH for UH employees. During all of
10 this it might be something that you could take
11 advantage of.

12 Correct.

13 Q. Did you take suggestion and go see
14 anybody in EAP?

15 A. I didn't.

16 Q. And then on February 14th you see
17 at 1:02 you write to Christina and one of the
18 things you do is you want to know the details,
19 whatever details you can know about Paul
20 Simmons.

21 Do you see that?

22 A. Correct.

23 Q. Christina basically tells you that
24 things were addressed and that he is moving
25 today as you requested.

1 Do you see that?

2 A. Yes.

3 Q. Is that accurate?

4 A. That's accurate. She did not tell
5 me the outcome of the meeting.

6 Q. And she says she has made changes
7 to help you feel comfortable.

8 They never said to you, don't come
9 back if you are still having trouble; did she?

10 A. Don't come back where?

11 Q. Christina, she never said, and I
12 don't want to hear from you about this again or
13 anything like that to you; did she?

14 A. I don't imagine she would say
15 something like that as an HR person.

16 Q. But she didn't?

17 A. No, she didn't.

18 Q. And you never went back and saw her
19 and told her that you were still upset that he
20 was in the building; did you?

21 A. No, I didn't. But that doesn't
22 mean that I didn't feel that way, you know, I'm
23 a big girl.

24 Q. You didn't ever seek out EAP as
25 suggested to you; correct?

1 A. Correct.

2 - - - - -

3 (Thereupon, Defendant's Exhibit 19,
4 e-mail Correspondence from Victoria
5 Johnson, was marked for purposes of
6 identification.)

7 - - - - -

8 Q. Show you what I have marked as
9 Exhibit 19.

10 In an e-mail chain on the second
11 page there you write Steve about your
12 performance review; correct?

13 A. At 7:12?

14 Q. Yes.

15 A. Yes.

16 Q. And you say that you believe that
17 you were given the performance review you were
18 given because of your complaint about Paul
19 Simmons.

20 Do you see that?

21 A. Yes, that was a belief of mine.

22 Q. And what led you to that belief?

23 A. Because the CAs were inaccurate.

24 Q. And because they were inaccurate
25 they had to somehow or other be related to

1 Paul?

2 A. Not related to Paul. To me it
3 could have been, in my mind, as some form of
4 retaliation or to present the fact that I
5 wasn't a model employee, I don't know.

6 Q. Why would they want to retaliate
7 against you because you wanted to report that
8 about Paul?

9 MR. HERRON: Objection.

10 Go ahead. If you know why.

11 THE WITNESS: If I know why?

12 MR. HERRON: If you know why.

13 A. I don't know why, but I don't know
14 why they would write it.

15 Q. So you naturally link those two in
16 your head --

17 MR. HERRON: Objection.

18 Q. -- without any facts to link them;
19 is that right?

20 A. Well, it came out of the blue that
21 they wrote these things on me.

22 Q. And this is more than a year later;
23 right?

24 A. No, it's the same year.

25 Q. Oh, same year, excuse me.

1 A. Matter of fact, that was in
2 February about Paul, my review was in March.

3 Q. And do you know when your review
4 was actually written?

5 A. No, I don't remember the exact
6 date. It should be in there. If you don't, I
7 mean --

8 Q. If they actually determine what
9 your review is going to be before the Paul
10 event, you would have to agree that it wouldn't
11 be related to Paul; wouldn't you?

12 MR. HERRON: Objection.
13 Assuming facts not in evidence.

14 Q. I will ask you to assume those
15 facts.

16 A. I won't assume those facts.

17 Q. I'm not ask you whether you want to
18 or not. For purposes of my question, assume
19 that your review was actually determined what
20 it was going to be in January before you --

21 A. That's not true.

22 Q. If I could finish my question.

23 A. Go ahead.

24 Q. I want you to assume that it was
25 determined what your review was going to be in

1 January before you made the report about Paul.
2 If that's true, then it couldn't possibly have
3 to do with Paul.

4 Would you agree with that?

5 A. I would agree with that.

6 Q. Okay.

7 A. However, my review -- my review was
8 after the fact. And I specifically remember
9 that I was supposed to -- I believe everybody
10 in the department had their review in March. I
11 believe, well, I know I had mines after
12 there's. Maybe a week after. So and I don't
13 think he completed it yet.

14 Q. Okay. Yes. I'm not disagreeing
15 with you. I know that your review was in
16 March.

17 A. Right.

18 Q. But I'm saying if they had
19 determined what your rating was going to be in
20 January, because it was a review of not January
21 and February, but a review of the prior year;
22 correct?

23 A. Correct. But listen to this, the
24 corrective actions were from two to three weeks
25 prior, so --

1 Q. And those corrective actions are
2 not reflective in your review or are they?

3 A. No, they disposed of them.

4 Q. And did you ever in writing give
5 them the information with regard to what was
6 wrong with the corrective actions you say they
7 presented you with?

8 A. Did I give them?

9 Q. You said you went back to your
10 desk, got the fax?

11 A. And presented it to them.

12 Q. You presented it in writing?

13 A. That I don't remember. But I
14 presented it to them. Well, I didn't present
15 the response in writing, but I showed them the
16 paperwork in which they said that I caused them
17 to lose money on Elizabeth Schuld. And that
18 happened in 2012, it wasn't the year prior.

19 Q. Did you keep that paperwork?

20 A. I am trying to figure, do I have a
21 copy of that. I don't believe -- I'm not sure.
22 I have I'm not sure.

23 But it was because of these claims
24 that were recent and not -- like I said, I was
25 the last one to have my review. I think he put

1 it off for like a week or two after everyone
2 else had theirs.

3 Q. You see that on the next page
4 Christina responds to you and says that Steve
5 and Sheryl have documented performance concerns
6 that fell under your responsibility that
7 occurred in 2011. Do you see that?

8 A. Uh-huh.

9 Q. Yes?

10 A. Yes.

11 Q. Was that an accurate statement?

12 A. It's from the day that he -- he
13 prepared the review until a year before.

14 Q. Right. But it says that they
15 documented performance concerns that fell on
16 your responsibility and occurred in 2011.

17 Is that accurate that that
18 demonstrated to you some issues in 2011?

19 A. No, there weren't any in 2011,
20 those corrective actions were in 2012.

21 Q. You see that a formal corrective
22 action was not issued to you. The CA is
23 currently Steve and Sheryl's documentation of
24 the events, not a formal CA on your records.

25 Do you see that?

1 A. Yes. I'm trying to -- in 2011.
2 Technically, I believe -- when was I promoted
3 to provider enrollment? That was in October of
4 2000 --

5 Q. According to your testimony, yes.

6 A. 2011?

7 Q. Right.

8 A. So Steve wouldn't have much to go
9 on. I was only under his tenure from October
10 to --

11 Q. December?

12 A. -- December.

13 Q. So you dispute that statement, is
14 what I'm asking?

15 A. Well, my performance was done based
16 on the evaluation of my work, but he wasn't
17 responsible for a good portion of 2011.

18 Q. You were aware that there was not a
19 formal corrective action; is that correct?

20 A. I am aware -- yes, they did not
21 give me a copy of it.

22 Q. And up above you say they have
23 documentation to present to you to support my
24 belief. Do you see that?

25 A. Yes.

1 Q. So they did meet with you then;
2 right?

3 A. Yes. They said they wouldn't give
4 me the corrective action only because it would
5 prevent me from moving to another department,
6 not that I was right. I mean, I was wrong in
7 what I did.

8 Q. So they were trying to be helpful
9 to you because you had expressed an interest in
10 moving to another department; is that correct?

11 A. Right. If I'm wrong, I'm wrong,
12 that's something you don't do away with.

13 Q. You would agree that they were
14 trying to be helpful to you?

15 A. Yeah, they were.

16 (Discussion had off the record.)

17 - - - - -

18 (Thereupon, Defendant's Exhibit 20,
19 UH Performance Evaluation dated
20 March 6, 2012, was marked for
21 purposes of identification.)

22 - - - - -

23 Q. Let me show you what I have marked
24 as Exhibit 20.

25 Do you recognize that as your --

1 A. Uh-huh, yes.

2 Q. -- performance evaluation that we
3 were just talking about; correct?

4 A. Yes.

5 Q. And it shows that it is a March 6th
6 evaluation; correct?

7 A. Correct.

8 Q. The first one says that you
9 frequently meet the expectation; correct?

10 A. Uh-huh, yes.

11 Q. And it says that you need to pay a
12 little closer attention to the detail when
13 submitting applications?

14 A. Correct.

15 Q. Did you disagree with that?

16 A. Well, everybody has their
17 interpretations, but this is what they put down
18 here.

19 Q. The next one says you consistently
20 meet the expectation; correct?

21 A. Correct.

22 Q. And the next one on integrity says
23 you frequently meet the expectation; correct?

24 A. Correct.

25 Q. Compassion says you frequently meet

1 it; correct?

2 A. Correct.

3 Q. But it says that you don't
4 consistently present a positive disposition or
5 convey a desire to maintain constructive
6 interpersonal relationships.

7 Did you agree with that?

8 A. Interpersonal relationships. Well,
9 they said that because I'm not, you know, they
10 -- what did they say? Because I'm not, you
11 know, I'm off to myself, right.

12 Q. And so that's accurate that you
13 were off to yourself?

14 A. Well, I wouldn't say one hundred
15 percent of the time.

16 Q. But predominantly?

17 A. Predominantly yes.

18 Q. The next one on teamwork says
19 frequently meets expectations.

20 Do you see that?

21 A. Where is the teamwork? Yes.

22 Q. It says at the end there, Victoria
23 needs to have a better understanding of the
24 rejection report and how to work the report.

25 Would you agree with that?

1 A. Yes, I was never properly trained
2 on how to --

3 Q. Do that?

4 A. -- do that.

5 Q. Okay. And the next category it
6 says frequently meets expectations. Do you see
7 that?

8 A. Yes.

9 Q. It says that you need to transfer
10 information to appropriate departments on a
11 timely basis, referring physicians, new
12 providers that needed loaded into IDX. All of
13 these processes ultimately impacts claims out
14 the door?

15 Do you see that as an issue with
16 your transferring information to others; did
17 you agree with that?

18 A. Yes, but it contradicts frequently
19 meeting expectations.

20 Q. Well, that's as opposed to does not
21 meet expectations; correct?

22 A. Yeah, well, those are the choices.

23 Q. Well, there's two above that.

24 A. Well, it says consistently, right,
25 exceeds and meets.

1 Q. So there are two categories above
2 frequently meets and one below?

3 A. That's correct.

4 Q. And then the next category is
5 frequently meets and it says that you need to
6 engage yourself during required meetings and
7 new knowledge skills such that required to work
8 rejection reports are not always learned and
9 applied effectively?

10 A. Well, they put that there, I was
11 never formally trained on the rejection
12 reports.

13 Q. So you were having trouble with the
14 rejection reports?

15 A. Correct.

16 Q. And then building trust, frequently
17 meets expectations, it says Victoria's
18 interactions do not consistently elicit
19 confidence and trust from others.

20 Would you agree with that?

21 A. I see it here. Do I agree with it?

22 Well, you know, you have Bianca --
23 at this time you had Bianca and Christine, they
24 were considered, you know, a peer. So, you
25 know, and that probably came from -- I mean, I

1 understand what he is saying, I'm not part of a
2 group or whatever. You know, I felt when I
3 went to go ask them for questions or how to do
4 something that I was just being shunned off.

5 Q. So far none of these categories
6 have anything to do with the two incidences
7 that you were independently written up for;
8 right?

9 MR. HERRON: Objection to the form.
10 Go ahead.

11 A. Can you repeat that?

12 Q. Sure.

13 A. Or rephrase it.

14 Q. So far all of the categories that
15 we looked at and the ratings and the comments,
16 they don't have to look at two specific
17 incidences that you have indicated you have
18 been written up for; correct?

19 MR. HERRON: Same objection.
20 You can answer.

21 A. From this evaluation, no.

22 Q. Right, okay.

23 And the next one is, frequently
24 meets expectation. And it says that you would
25 benefit from communicating more closely with

1 your provider contacts. There have been times
2 when they have asked for information or updates
3 to be done within IDX and they have not been
4 completed on a timely basis and they have gone
5 to other PE reps for assistance?

6 A. Uh-huh.

7 Q. Now, that doesn't have anything to
8 do with the two individual incidences that you
9 were written up for; correct?

10 A. Correct. That's why it hard for me
11 to believe that I was written up for them.

12 Q. So at least this review that we
13 have seen thus far doesn't have to do with
14 those two incidences; correct?

15 MR. HERRON: Objection.

16 You can answer if you know.

17 A. Can you repeat that, please?

18 Q. So far the review that we have seen
19 doesn't have to do with the two incidences that
20 you were independently written up for?

21 MR. HERRON: Same objection.

22 But you can answer.

23 A. No. But I'm curious here. It says
24 for 2011 there were issues related to the
25 application as well as expectations.

1 Are they referring those two to
2 this?

3 Q. You have to read the whole
4 sentence.

5 A. All right.

6 Q. For 2011 there are issues related
7 to the application as well as below expectation
8 efforts to stay current with rejection report,
9 which seems to be --

10 A. As well as. Right.

11 Q. All right. So.

12 Then if you go to the last page
13 here of the review.

14 A. Oh, sorry.

15 Q. You will see in there it kind of
16 repeats the same comments. Then it says,
17 Victoria can maintain a level of
18 professionalism by not nodding off or appearing
19 disengaged.

20 So by this time you had had some
21 issues with nodding off; correct?

22 A. At the meetings, yes.

23 Q. Okay.

24 A. You know, sometimes you go into a
25 meeting and, you know, because of your being in

1 a room or the temperature or, I mean, it's
2 happened not only in providing rooms, when I go
3 for my continuing education with real estate
4 so.

5 Q. Okay. When it says employee
6 comments, it says comments forthcoming.

7 Did you ever present comments?

8 A. Yes, I did. And that was with
9 regard to the two write-ups.

10 Q. Did you do anything in writing?

11 A. I honestly can't say whether it was
12 in writing. I know I did address them with it
13 or about it. I think I requested a meeting in
14 writing.

15 Q. And then you did sign this form.
16 Do you see that?

17 A. Yes.

18 I don't believe I signed those two
19 write-ups, but I did sign this. This right
20 here, it says, overall, Victoria does not
21 portray herself -- maintain a level of
22 professionalism by not nodding off. It says
23 not. It doesn't say nodding off.

24 - - - - -

25 (Thereupon, Defendant's Exhibit 21,

1 e-mail Correspondence from Sheryl
2 Johnson, was marked for purposes of
3 identification.)

4 - - - - -

5 Q. Let me show you what I have marked
6 as Exhibit 21.

7 A. Maybe they were looking for my
8 approval, but that's okay.

9 Q. If you look at page two of Exhibit
10 21.

11 A. Uh-huh.

12 Q. There is an e-mail from Sheryl to
13 you of April 3rd. Do you see that?

14 A. Which page, two?

15 Q. Yes.

16 A. Yes.

17 Q. This is where she asks you, Sheryl,
18 your supervisor, asked you to place a break
19 sign and said that several people had mentioned
20 that you were sleeping and did not see a break
21 sign; correct?

22 A. Correct.

23 Q. And your response to Sheryl then, a
24 couple of days later was, I verbally told you
25 before you were sending this e-mail that I was

1 on break, a rest period. And then you say
2 this, please inform those walking up and down
3 the aisle that I sometimes will stay at my desk
4 during my break, just in case I do not put a
5 break, which something I do, only because I do
6 not wish to be disturbed.

7 Now, that seems like it had to have
8 been some sarcasm or something because you
9 wouldn't really expect that Sheryl was going to
10 go out into the hallways and tell everybody
11 what your behavior would be on break; did you?

12 MR. HERRON: Objection.

13 A. Can you rephrase that?

14 Q. Did you really expect her to inform
15 people walking up and down the aisle that you
16 sometimes stay at your desk during your break?
17 You really thought that your supervisor should
18 go out there and inform people?

19 MR. HERRON: Objection.

20 If you understand her question you
21 can answer. Go ahead.

22 A. I don't expect her to. But not
23 everybody puts up a break sign when they are on
24 their lunch break. So I may have felt, you
25 know -- I don't know what I felt, but not

1 everyone does it, you know. And I spoke to her
2 verbally, but she decided to send an e-mail.

3 Q. If not everybody does it, does it
4 mean you shouldn't do it?

5 MR. HERRON: Objection.

6 Go ahead.

7 Relevance.

8 Go ahead if you understand what she
9 is talking about.

10 A. Well, if it's a company policy
11 everybody should do it.

12 Q. If you are asked specifically to do
13 something by your supervisor, do you still have
14 the right to do say, no, I'm not going to do
15 that?

16 A. Why is she asking me -- as a matter
17 of that fact, yes. Why is she asking just me
18 to do it and not everyone else? Is that
19 another form of harassment or retal --

20 Q. Is she asking you because you were
21 reported sleeping at your desk?

22 A. Well, I'm on my break and I told
23 her that I was on my break and I felt that that
24 should suffice, because not everybody does it.

25 Q. Okay. Then you say, I don't

1 believe these signs are supplied by UH.

2 In order to put a sign up you
3 thought UH should supply you a sign?

4 A. Yes, if it is company policy I felt
5 that they should provide a sign. If it is
6 company policy for us to not take a break at
7 our desk and if it's company policy they should
8 supply the sign.

9 But then I also told her that the
10 reason why I take my breaks at my desk is that
11 so I could answer the phone calls from CGS so I
12 can tell them the doctor can be reached there
13 directly.

14 Q. And so now you say, again, I am
15 made to feel --

16 A. Although they cannot.

17 Q. Again I am made to feel that
18 management is creating a hostile work
19 environment?

20 A. Correct.

21 Q. Why do you say again?

22 A. Well, this was after my review. So
23 then, you know, I felt the corrective action
24 was putting me -- I mean, hostile. I felt that
25 the break sign was hostile.

1 Q. Anything else?

2 A. That's it. Certainly what I see
3 here.

4 Q. And so you still thought the
5 corrective action was hostile once you were
6 able to show them their facts were wrong and
7 they with withdrew it?

8 A. No, they --

9 Q. And it's not okay if they just made
10 a mistake on the facts with you?

11 A. That's not a serious fact. That is
12 a serious mistake.

13 Q. But they didn't process it once you
14 gave them the facts; did they?

15 MR. HERRON: If you know.

16 Objection.

17 A. Whether they did away with it or
18 not, I just felt that they shouldn't have
19 created it. I mean, that's something that you
20 don't take lightly. That very well can -- if
21 it was put in my folder could keep me from
22 moving to another department. It could also
23 now -- those were two. There's a third strike
24 program, the third one, I'm out of there.

25 - - - - -

1 (Thereupon, Defendant's Exhibit 22,
2 e-mail Correspondence from Victoria
3 Johnson Regarding Medication, was
4 marked for purposes of
5 identification.)

6 - - - - -

7 Q. Showing you what I have marked as
8 Exhibit 22.

9 If you go to the third page of the
10 stream of e-mails, this is your e-mail that you
11 referenced before to Sheryl where you let
12 Sheryl know that you were not pleased with her
13 saying anything about your medication; is that
14 correct?

15 A. Correct.

16 Q. And you sent that on June 13th at
17 11:06 correct?

18 A. Correct.

19 Q. And on June 13th at 11:25 she
20 writes you back and apologizes; correct?

21 A. Wait, hold on a second, let me just
22 catch up with you.

23 Okay. So where are you at now?

24 Q. The response from Sheryl to you.

25 A. Which is?

1 Q. Right at the top.

2 A. Victoria, I didn't realize that my
3 asking if you were doing okay or if maybe the
4 doctor could decrease your medication so that
5 you were not having effects that you are having
6 was to be had in a private setting. That is
7 correct.

8 She is a nurse. She is a manager,
9 so she should know.

10 Q. And then she said she didn't know
11 what you were taking and she said her
12 apologies, she was out of line; correct?

13 A. She apologized, but that doesn't
14 take away the fact that she did it in public.

15 Q. And after that is when you wrote
16 Christina Morrison; correct?

17 A. Correct.

18 Q. And you tell her that you don't
19 want her to talk to Sheryl until you leave;
20 right?

21 A. Where does it say that? Which one
22 is that?

23 Q. The next one, from you to
24 Christina.

25 A. At what time?

1 Q. 12:51.

2 A. Right. Maybe you can talk to
3 Sheryl later on when I leave. Yes.

4 Q. You say you can't deal with any
5 additional stress; correct?

6 A. Yes.

7 Q. And then Tina says that she is
8 going to talk to her and glad that she
9 apologized?

10 A. Correct.

11 Q. And she has a good response to you?

12 A. Yes.

13 Q. Caring response?

14 A. Yes.

15 Q. Did your other co-workers know that
16 you were taking medication?

17 A. I don't believe I said anything to
18 them.

19 Q. You don't know for sure?

20 A. I don't recall.

21 Q. Who is it that overheard what
22 Sheryl said?

23 A. Who would have heard were the two
24 cubes, the one in back of me, the one in front
25 of Sheryl. The two cubes, the four cubes on

1 the other side.

2 Q. Who would have heard that?

3 A. Let's see, I think Paul was sitting
4 behind me at the time or Kristen Johnson.

5 Q. So you don't recall?

6 A. No I don't recall because we moved
7 some seats around.

8 Q. Do you know if anybody heard it?

9 A. No one had said anything to me, so
10 I don't know if they heard it. Bottom line, I
11 felt it should have been done inside an office.

12 - - - - -

13 (Thereupon, Defendant's Exhibit 23,
14 e-mail Correspondence from Victoria
15 Johnson, was marked for purposes of
16 identification.)

17 - - - - -

18 (Discussion had off the record.)

19 Q. I'm going to show you what I have
20 marked as Exhibit 23.

21 Exhibit 23, you took the e-mails,
22 the one that you had sent and the one where
23 Sheryl responded that we saw in Exhibit 22 and
24 sent them to your home; correct?

25 A. Yes.

1 Q. And you did that, you sent them to
2 your house, over a month later; is that
3 correct?

4 A. Yes.

5 Q. Why did you do that?

6 A. I contacted -- I'm so upset. I
7 contacted, who was it (crying) I forgot who I
8 contacted. I think it was and told them that
9 she had discussed my personal information, but
10 they told me that that wasn't an issue that I
11 had to deal with, I would have to take it up
12 with management.

13 Q. So why did you send it to your
14 house?

15 A. Because I had an application that I
16 had to fill out. I forgot the name of the
17 entity. I think it's the civil rights.

18 Q. Did you further tell anybody at UH
19 that you were upset about this after your
20 communications with Christina?

21 A. I don't recall.

22 Q. So more than a month later you were
23 still upset?

24 A. Yes.

25 Q. Do you want to take a break?

1 A. Yeah, to get a tissue.

2 Q. There's some right there.

3 MR. HERRON: Why don't we take
4 five?

5 (Short recess had.)

6 Q. Ready to proceed?

7 MR. HERRON: Ready to proceed.

8 A. Yes.

9 - - - - -

10 (Thereupon, Defendant's Exhibit 24,
11 e-mail Correspondence from Victoria
12 Johnson, was marked for purposes of
13 identification.)

14 - - - - -

15 Q. Let me show you what I have marked
16 as Exhibit 24.

17 If you could go to page three of
18 three of this e-mail chain. You wrote an
19 e-mail on June 29th to basically everybody that
20 was in your department; is that correct?

21 A. June 29th?

22 MR. HERRON: Are you asking her if
23 she wrote an e-mail on June 29th?

24 MS. KAMINSKI: That Sheryl did,
25 excuse me.

1 A. At 10:21?

2 Q. Right.

3 A. Uh-huh.

4 Q. Yes?

5 A. Yes.

6 Q. And she says that she wanted to
7 remind everybody that CGS is being extremely
8 critical of the applications; correct?

9 A. Correct.

10 Q. And it says that Bianca had two
11 applications returned because the imprinted
12 data in a bottom, left-hand corner of several
13 of the pages were cutoff.

14 So they were being critical in many
15 respects, correct, CGS was?

16 A. Correct.

17 Q. And then Jordan said that they had
18 denied an app and said that you guys were a
19 billing company; correct?

20 A. It says, yes, that there was an
21 application that was denied, they called Monica
22 to verify and they denied the application
23 because they said we were a billing office. I
24 believe, I don't know if they talked to Monica
25 or if it went to the voicemail.

1 Q. And then Jordan says that we sent
2 her a nice detailed e-mail telling her that we
3 were not and they had not heard anything yet;
4 correct?

5 A. Correct, that's what it says.

6 Q. And then Steve Riddle says, let's
7 make sure everyone who answers the phones,
8 specifically for the MP billing services line,
9 that they recognize the area codes.

10 A. And answer the phone --

11 Q. I'm going to get there.
12 And the MP billing services, that's
13 not you; right?

14 A. No, that's not me.

15 Q. Okay.

16 A. He addressed it to everyone.

17 Q. Right.

18 A. So if we were not a part of the MP
19 we still would be -- we were MG.

20 Q. Right.

21 A. So he sent it to everyone but
22 specifically for the billing services because
23 Monica worked for MP.

24 Q. Right.

25 And he says that he doesn't want it

1 to be determined that you were a billing
2 company because you really weren't a billing
3 company; correct?

4 A. We were the building, central
5 billing office, the entire office. The way
6 that it works --

7 MR. HERRON: You just answer her
8 questions, yes or no, that's what she is asking
9 for.

10 A. Yes.

11 Q. You weren't working for a billing,
12 you weren't doing billing services; correct?

13 A. Not the billing.

14 Q. Right?

15 A. Right.

16 Q. And then you wrote Steve on July
17 16th. Do you see that?

18 A. Yes.

19 Q. And you said that you had
20 reservations about lying since we incorporated
21 this practice. I will not be participating in
22 this unethical practice any longer for moral
23 reasons.

24 What was the unethical practice?

25 A. The unethical practice was

1 answering the phone and verifying that the
2 doctor could be reached there directly. When I
3 did not answer the phone it would go into my
4 voicemail, it would clearly identify the number
5 as my number, not the provider's office.

6 Q. Now, let's assume that you work for
7 a doctor at UH on the main campus?

8 A. Uh-huh.

9 Q. Yes?

10 A. Yes.

11 Q. You will assume that for me?

12 A. Uh-huh.

13 Q. And he has an office in Bolwell,
14 but -- and he also has an office in, what's the
15 one that's on the other side of the hospital,
16 Humphrey.

17 Are you familiar with the main
18 campus?

19 A. Yes.

20 Q. Those offices are a long, long way
21 away; correct?

22 A. Correct.

23 Q. And you were to sit in Humphrey and
24 give that phone number, you wouldn't be able to
25 directly give it to the doctor who is in

1 Bolwell; would you? You would have to call him
2 and tell him he had a message and you would
3 still be part of his office; wouldn't you?

4 A. Yes. And that's what the
5 application stated. It could be his location,
6 but we were verifying this when we were at the
7 billing office.

8 Q. But what I am saying is, under
9 those circumstances, you wouldn't be under the
10 same roof, really, you would be in the same
11 complex?

12 A. Right. We were not under the same
13 roof and that is the issue that CGS was having.

14 Q. And CGS was aware of where you were
15 located and where the doctors were located;
16 correct?

17 MR. HERRON: Objection.

18 If you know.

19 A. They did not.

20 Q. You told them?

21 A. We told them, yes. We lied to
22 them.

23 Q. No. No. No. You told them in an
24 e-mail. You informed them what the
25 circumstances were; right?

1 A. Which e-mail is that?

2 Q. I will show it to you here in a
3 little bit.

4 A. Okay.

5 Q. Let's keep going by this.

6 So the unethical practice is
7 answering the phone and saying you can directly
8 get the doctor; right?

9 A. Correct. No, not get the doctors,
10 that they can be reached at that number.

11 Q. Well, reached. Reached at that
12 number. Reached is the operative word; right?
13 You could reach the doctors; couldn't you?

14 A. Not directly at that number, at my
15 number.

16 Q. Okay.

17 A. Then when it was denied it said
18 that the number that they were looking for was
19 one of the doctor's personal service when they
20 expect to reach him either at his home or his
21 cell phone or his location.

22 Q. Now, you go onto to say, this
23 situation has imposed additional stress and in
24 turn affects my performance.

25 Are you saying that your

1 performance was below par at this time?

2 MR. HERRON: Objection.

3 A. It wasn't subpar because it did not
4 hinder me from completing the applications the
5 way that they told me to.

6 Q. But you thought you were having a
7 negative impact on your performance; right?

8 A. It had imposed additional stress.

9 Q. Which, in turn, affected negatively
10 your performance; right?

11 A. I just felt --

12 Q. You weren't indicating a positive
13 performance?

14 A. I felt bad about doing it.

15 Q. What you are indicating here is,
16 your performance is worse because of the
17 additional stress, right, not better?

18 A. I don't feel good about what I'm
19 doing, that would be picking up the phone.

20 Q. You would agree with me that what
21 you mean here is that your performance is
22 negatively impacted; correct?

23 A. Yes, because I didn't want to
24 answer the phone.

25 Q. Okay. And then you tell Steve --

1 A. Uh-huh.

2 Q. -- that you have been taking
3 prescribed medication, stress and
4 antidepressants?

5 A. Yes.

6 Q. And that your family wants you to
7 stop taking them.

8 A. Correct.

9 Q. So you are disclosing to Steve that
10 you are on that medication; correct?

11 A. Yes, I am. I am pretty sure that
12 the e-mail that I sent Christine about my
13 taking medication would have somehow gotten to
14 Steve.

15 Q. But you didn't know that; did you?

16 A. I felt that if I talked to him and
17 tell him I'm taking medication, I have no
18 problem doing that, I don't want him telling
19 anybody else.

20 Q. And you didn't just tell him
21 medication, you tell him you are taking stress
22 and antidepressants; correct?

23 A. Correct. Which is the Zoloft.

24 Q. And now you are telling him that
25 you are going to stop taking it?

1 A. Correct.

2 Q. And is this at or about the time
3 you stopped taking the medication?

4 A. It probably -- I mean it could have
5 been.

6 MR. HERRON: I will object to your
7 characterization in that question that she
8 indicated that she was going to stop taking the
9 medication. That is not what she said in the
10 e-mail.

11 - - - - -

12 (Thereupon, Defendant's Exhibit 25,
13 e-mail Correspondence from Christina
14 Morrison, was marked for purposes of
15 identification.)

16 - - - - -

17 Q. Let me show what you what I have
18 marked as Exhibit 25.

19 If you would just look at the first
20 e-mail there from Christina Morrison to Sheryl
21 and Steve and it says, on July 17th, I just
22 went to see Victoria to see if she had a minute
23 to talk and she was sleeping at her desk. I
24 woke her up and asked her if she was okay. She
25 said, yes, she was just a little tired.

1 Do you recall that Christina came
2 by and woke you up at your desk?

3 A. Yes.

4 Q. Were you on break that time, too?

5 A. Yes.

6 Q. Did you have the sign up?

7 A. I don't recall.

8 - - - - -

9 (Thereupon, Deposition Exhibit 26,
10 e-mail Correspondence from Sheryl
11 Johnson, was marked for purposes of
12 identification.)

13 - - - - -

14 Q. Let me show you what I have marked
15 as Exhibit 26.

16 If you would turn to the last page
17 of Exhibit 26 there's a statement there by
18 Kristen Johnson.

19 Do you know Kristen Johnson?

20 A. Yes.

21 Q. Did you have any problems with
22 Kristen Johnson?

23 A. No.

24 Q. If you look at the last page of the
25 document that I have handed you as Exhibit 26?

1 A. Uh-huh, yes.

2 Q. You see there is a statement there,
3 if you would read that statement to yourself?

4 A. Yes, I see that.

5 Q. Okay. Do you remember this
6 happening?

7 A. I briefly do.

8 Q. And is this an accurate depiction
9 of what happened?

10 A. Yes, I also believe that I was on
11 my break.

12 Q. Okay.

13 A. I mean, for me to put a blanket
14 over, it was just me putting my head down.

15 - - - - -

16 (Thereupon, Defendant's Exhibit 27,
17 e-mail from Carole Meisler dated
18 July 17, 2012, was marked for
19 purposes of identification.)

20 - - - - -

21 Q. Let me show you what I have marked
22 as Exhibit 27.

23 Do you remember receiving this from
24 Carole Meisler?

25 A. Yes.

1 Q. Did you have any communications
2 with Carole that were not in e-mail?

3 A. I don't recall. I don't think I
4 did.

5 Q. You see that she says that the
6 expectation is that the physician would not be
7 answering the contact telephone number and that
8 the messages would be forwarded to the
9 physicians as needed.

10 Would you have any reason to
11 believe that that is not true?

12 A. Not true in her saying that?

13 Q. Do you have any reason to believe
14 that CGS didn't tell her that?

15 A. Yes.

16 Q. What is that?

17 A. Because I had in writing that they
18 wanted to reach the doctor directly and that it
19 had to be their own personal service number,
20 one, either their phone number or their house
21 number or office number.

22 Q. You had that from somebody at CGS,
23 but you didn't know -- did you know whether
24 they were a policy decider or not at CGS?

25 A. No, this was on a denial form, a

1 standard.

2 Q. And, then, it says that the purpose
3 for the contact telephone number is in order to
4 verify information on the application. That
5 was, in fact, your job, right, to fill out
6 those applications?

7 A. They put the responsibility on us.

8 When you read the application on
9 section 2B it says, do you, so they are
10 anticipating that the provider is filling out
11 the application.

12 Q. And, then, CGS recognizes that
13 often support personnel will be able to handle
14 these queries?

15 A. Correct.

16 Q. Do you have any reason to believe
17 that is not true?

18 A. That's true.

19 However, those queries are supposed
20 to be handled by the contact person, which is
21 supposed to be listed in section 13.

22 Q. Right. You were the contact person
23 listed in 13; right?

24 A. In 13 and also in 2B.

25 Q. Now, just last night or late

1 yesterday --

2 (Discussion had off the record.)

3 Q. -- your lawyer sent us this
4 document.

5 - - - - -

6 (Thereupon, Defendant's Exhibit 28,
7 CGS Letter In Re: Joseph Stone,
8 dated July 19, 2012, was marked for
9 purposes of identification.)

10 - - - - -

11 Q. Do you know where this document was
12 kept before yesterday?

13 A. Where it was kept?

14 Q. Yes.

15 A. What do you mean by where it was
16 kept?

17 Q. Did you have this document in your
18 possession before yesterday?

19 A. Yes.

20 Q. And where did you keep it?

21 A. Along with my other documents.

22 Q. Do you know why it wasn't produced
23 to me until yesterday?

24 A. It may have been an accident as to
25 why it wasn't sent over. It's noted in some of

1 the e-mails that I got from -- Dr. Stone, I
2 would have gotten this from Andrew Baumann. I
3 think he handled Dr. Stone.

4 Q. And how did you come to have this
5 document at your house?

6 A. Well, I worked from home sometimes.

7 Q. And you printed this out at home?

8 A. I don't recall whether I printed it
9 out at home or I printed it at the office. I
10 don't know.

11 Q. Why did you have it at your house
12 more than a year after you have left the employ
13 of UH?

14 A. It was documents that I had while I
15 was working at UH.

16 Q. And you kept it?

17 A. Yes.

18 Q. And you had it at your house,
19 something about Dr. Stone?

20 A. Well, we were going through the
21 process of, you know, the unpaid leave and the
22 paid leave, I made a copy of the documentation.

23 Q. And when did you do that?

24 A. I don't remember when. I don't
25 know whether it was before I left or when I

1 went back to work. It wasn't when I went back
2 to work because -- I don't think it was when I
3 went back to work. But, no, this -- I had
4 documentation from some of the e-mails and this
5 is the documentation.

6 Q. And why did you keep this
7 particular piece of documentation?

8 A. Why did I keep it?

9 Q. Yes.

10 A. Well, to be able to show that I had
11 documentation in black and white that what we
12 were doing wasn't correct.

13 Q. And why does this show that?

14 A. Why or where?

15 Q. What is it that it shows that's
16 what you were doing was incorrect?

17 A. It says that we were unable to
18 provide -- to verify that the provider could be
19 reached at this phone number you provided in
20 the correspondence, which would have been my
21 number. And the reason why they must have sent
22 this is because they could not have contacted
23 me physically. It must have went to my
24 voicemail. And then once -- my voicemail says,
25 you reached the desk of Victoria Johnson,

1 provider enrollment department, then they would
2 automatically deny the application.

3 Q. The requested revisions are not
4 only that but there's other things, there is
5 not a new signature page; correct?

6 A. They didn't say that there isn't a
7 signature page, they are saying that each time
8 you have to make a correction to the
9 application a new signature page has to be
10 added.

11 Q. And it also says it is missing a
12 photocopy of the current passport or a
13 photocopy of the driver's license; correct?

14 A. Yes.

15 Q. What did page two say?

16 A. It's probably the address and the
17 name of the person who sent it.

18 Q. And you say you were not handling
19 Dr. Joseph Stone?

20 A. Yes, I was handling Dr. Stone.

21 Q. Were you able to fix these
22 problems?

23 A. No, this, I believe, is when that I
24 told them I wasn't going to do this anymore.

25 Q. So this is one you said you

1 wouldn't handle?

2 A. That's correct.

3 Q. And, then, do you remember that you
4 produced documents to me earlier in the case?

5 A. Documents to you?

6 Q. I requested a bunch of documents
7 and they were sent over to me earlier in the
8 case. Do you recall that?

9 A. Yes.

10 Q. Do you know why this particular
11 document was not with that production?

12 A. It may have been overlooked. I
13 wasn't intentionally trying to hide anything.
14 I would want you to have it.

15 - - - - -

16 (Thereupon, Defendant's Exhibit 29,
17 CGS Letter In Re: Angela Capp, dated
18 July 19, 2012, was marked for
19 purposes of identification.)

20 - - - - -

21 Q. Let me show you Exhibit 29.

22 MR. HERRON: The real question
23 would be, why did they not provide it to us in
24 their documentation?

25 Q. Did you, when you got

1 correspondence from CGS, did you normally print
2 it out?

3 A. What do you mean print it out? I
4 believe this right here --

5 Q. I'm not asking about Exhibit 29
6 that you have now in front of you. I'm asking,
7 as a general matter, if CGS sent you a letter,
8 I would assume that most of the correspondence
9 you got from them you got by e-mail; correct?

10 A. No, we got some stuff regular mail.

11 Q. This, what is now Exhibit 29, and
12 what was previously 28, would that have come as
13 a regular mail letter or would that have come
14 by e-mail?

15 A. This probably would have come by
16 mail.

17 Q. Regular mail?

18 A. Yes.

19 Q. And so you then you would have had
20 to take it to the copy machine and copy it to
21 take it home; correct?

22 A. Possibly, yes.

23 Q. And, again, to copy this I would
24 assume for the same reason is that you thought
25 it would demonstrate that, in fact, some of the

1 applications were denied because of the need
2 for a valid phone number; is that correct?

3 A. Correct.

4 Q. Now, I notice that the third bullet
5 point here is different than it was on Exhibit
6 28. Here it asks for the non-physician
7 practitioner's degree, certificate or
8 transcript do you see that?

9 A. Yes.

10 Q. Aside from just the valid phone
11 number, both of these had other issues for
12 which they were rejected; correct?

13 A. Correct.

14 Q. Did you also handle the Angela
15 Capp?

16 A. Yes.

17 Q. So it was you that hadn't provided
18 this other information; is that correct?

19 A. Yes. The driver's license was
20 probably in their file. I could possibly go to
21 the practitioner's -- to the website to get a
22 copy of her practitioner's degree.

23 - - - - -

24 (Thereupon, Defendant's Exhibit 30,
25 e-mail correspondence from Victoria

1 Johnson, was marked for purposes of
2 identification.)

3 - - - - -

4 Q. Let me show you what I have marked
5 as Exhibit 30. Start on page six of these
6 e-mails.

7 Are you there?

8 A. Yes. Page six. Hold on.

9 Q. Do you see that that starts with a
10 July 19th e-mail --

11 A. Uh-huh.

12 Q. -- to you from Shamekia?

13 A. Yes.

14 Q. And this is where she says she
15 needs a valid number placed in 2B; correct?

16 A. Correct.

17 And a new signed and dated section
18 15.

19 Q. Now, on Dr. Gupta's application, do
20 you recall that you had left the phone number
21 blank?

22 A. No, I didn't leave it blank,
23 because those were pre-printed.

24 Q. So you think that your phone number
25 was on that application?

1 A. I'm almost certain that it was. If
2 I used the same -- I mean, the application
3 packet that I have, I believe that this was
4 denied because I wasn't there to answer my
5 phone at my desk.

6 Q. And then you wrote back to
7 Shamekia, you see on page five there, on July
8 20th, and you say, can you clarify what CGS
9 expectations are when asking if the provider
10 can be reached at this number?

11 A. Yes.

12 Q. And, actually, what the form says
13 is, contact directly, not reached at this
14 number; correct?

15 A. Contact directly, that's right.
16 Yeah, contact directly. None of the providers
17 worked at the central billing office.

18 Q. And then you say at the top there,
19 you see a page five, you're writing to Shamekia
20 of CGS, and you say, with regard to section 2B,
21 and your question if the provider can be
22 reached directly at this location, the
23 providers cannot be reached here as this is the
24 office where we enroll the providers and
25 provide in-house billing services for them.

1 The practice location is 11100 Euclid Avenue.

2 How do we address this issue if the provider
3 cannot be reached here?

4 Do you see that you tell her that?

5 A. Yes.

6 Q. Now --

7 A. Well, she responded, the address
8 listed in section two cannot be that of the
9 billing office.

10 Q. But the providers cannot be reached
11 here isn't exactly accurate. You could reach
12 the provider; correct?

13 MR. HERRON: Objection.

14 A. Directly.

15 Q. Right. But you did it on a regular
16 basis when you were doing the applications;
17 correct?

18 A. Doing what?

19 Q. You reached the provider on a
20 regular basis when you were doing the
21 applications. That is what you told me this
22 morning.

23 A. I -- rephrase that.

24 Q. You reached the provider on a
25 regular basis?

1 A. I told you I didn't need to call
2 them.

3 Q. But we went through this this
4 morning and you told me that when you needed
5 to --

6 MR. HERRON: Let me make an
7 objection to form --

8 Q. -- that you could get a hold of
9 them?

10 MR. HERRON: Objection to form.

11 A. I told you that --

12 MR. HERRON: The issue is not
13 whether Victoria can reach the provider
14 directly, it is whether CGS can reach the
15 provider directly.

16 A. It's CGS.

17 Q. That isn't my question.

18 A. I had a way of reaching them.

19 Q. Okay. Good.

20 A. But I did not reach out to them,
21 not unless it was something that I couldn't
22 handle from the office myself.

23 Q. And so then Shamekia writes back
24 and says, the address listed in section two
25 cannot be of the billing service. Now, you are

1 not a billing service; right?

2 A. I worked in the central billing
3 office.

4 Q. But you didn't do the billing
5 service?

6 A. No, I didn't do the billing
7 service. But the central billing office --
8 their rejection said that it can't be the
9 central billing office, it cannot be the
10 management service office.

11 Q. That's not what's said here. Let's
12 just keep going with what we see here. We will
13 go through each one of them.

14 A. Okay.

15 Q. And then you tell her, this is what
16 I am interpreting. However, I have been told
17 to continue to use this address and telephone
18 number. Can you verify with your supervisor
19 and manager?

20 Now, who had told you at that time
21 to continue to use that address and telephone
22 number?

23 A. Steve Riddle. Sheryl Johnson.

24 Q. Okay. And then she asked you,
25 well, who asked you to use that number. And

1 you tell Shamekia who did; correct?

2 A. Correct.

3 Q. And then she said she is willing to
4 forward that information to their support team
5 and wait for a reply; correct?

6 A. Correct.

7 Q. Now, Shamekia is wondering about
8 it, I would guess?

9 A. She's not wondering, she knows what
10 she is doing.

11 Q. She is going to forward it to
12 somebody else?

13 A. I don't know. She felt she needed
14 to take it to a higher being.

15 Q. You write her back and say, our
16 compliance officer said it's okay for us to
17 answer the phone and verify that the doctor can
18 be reached here and we should pass on a message
19 to the doctor. Please verify that is correct.

20 So now you have told CGS exactly
21 what is happening; correct?

22 A. What Carol Meisler has told me.

23 Q. You have told them directly that
24 what you are doing is, you are going to get a
25 message and pass it onto the doctor; right?

1 A. That is what I was told that I was
2 supposed to do.

3 Q. I know. And you told CGS the truth
4 about what is happening; correct?

5 A. Correct.

6 Q. And then Shamekia writes you
7 back --

8 A. Uh-huh.

9 Q. -- and she says -- and she sent you
10 what's in the program integrity manual;
11 correct?

12 A. Correct.

13 Q. And it says down there, if an
14 answering service appears and the contractor
15 can identify it as the applicant's personal
16 service it is not necessary to talk directly to
17 the applicant or an official thereof.

18 A. Which page are you on?

19 Q. I'm at the top of page two, reading
20 what she sent you as part of the program
21 integrity manual which, in fact, it wasn't at
22 the time, but what she sent you.

23 A. Okay.

24 Q. It says, if an answering service
25 appears and the contractor can identify it as

1 the applicant's personal service, it is not
2 necessary to talk directly to the applicant or
3 an official thereof. The contractor only needs
4 to verify that the applicant can be reached at
5 this number; right?

6 A. You are talking about 15 point
7 five, point two, point two.

8 Q. I am. And that's what it says;
9 correct?

10 A. The correspondence address. The
11 correspondence address must be one where the
12 contractor can directly contact the applicant,
13 which is the provider, to resolve any issues
14 once the provider is enrolled in the Medicare
15 program. It cannot be the address of a billing
16 agency, management services organization, chain
17 home office or the provider's representative,
18 which would probably be us, attorney, financial
19 advisor. It can, however, be a post office box
20 or, in the case of an individual practitioner,
21 the person's home address.

22 The contractor shall call the
23 telephone number listed in this section to
24 verify that the contractor can directly contact
25 the applicant, which would be the doctor, not

1 the provider enrollment department. If an
2 answering service appears and the contractor
3 can identify it as the applicant's personal
4 service, which would have the doctor's name,
5 Dr. Gupta. They understand that the doctor is
6 on-call, surgery, whatever. It is not
7 necessary to talk to the applicant directly or
8 an official thereof. The contractor only needs
9 to verify that the applicant can be reached at
10 this number.

11 Q. The contractor only needs to verify
12 that the applicant can be reached at this
13 number; correct?

14 A. Right. By identifying as his
15 personal service.

16 Q. Right.
17 And you told them that the way they
18 can be reached is through you, correct, in the
19 e-mail right before that?

20 A. That's is I was told to say from
21 Sheryl.

22 Q. So you forward on internally to
23 Steve, Sheryl, Carole and Sheryl, this e-mail
24 chain; correct?

25 A. Yes.

1 Q. And --

2 A. Inclusive of the integrity manual.

3 Q. Right.

4 And you ask Carole to tell you who
5 she spoke with that suggested you could
6 continue to take calls here; correct?

7 A. Correct.

8 Q. And then you tell them about your
9 friend that works at HHS; right?

10 A. Correct. And he also sent me --
11 well, I was waiting to hear from him, but when
12 I talked to him he read off the integrity
13 manual.

14 Q. So now you have told CGS what is
15 happening and you have also told the
16 supervisors at UH; right?

17 A. Yes. Because --

18 Q. And --

19 A. -- I was told that if I felt there
20 was something that they weren't compliant, to
21 bring it to their attention.

22 Q. And, then, what happened with Dr.
23 Gupta's application, did it proceed?

24 A. No, because I wouldn't proceed with
25 it.

1 Q. Do you know what ultimately
2 happened with it?

3 A. Maybe Sheryl or someone else
4 proceeded with processing it.

5 Q. And it got processed even after CGS
6 was told what number was being used; correct?

7 A. I don't know if it was processed, I
8 can't give you that answer.

9 Can I get a Kleenex?

10 Q. Sure.

11 Because now, hereafter, CGS, after
12 Exhibit 30, CGS is on notice that everyone that
13 comes through with that phone number on it,
14 that you are who you are and what you're doing
15 as far as the doctor; correct?

16 A. Wait. Can you repeat that?

17 Q. After you tell Shamekia what is
18 happening here, every application you put in or
19 that comes in with the number that is at your
20 desk, they will know exactly what is happening,
21 they will know that you are not situated with
22 the doctor, but that you can reach the doctor
23 to give them a message; correct?

24 A. Every app -- I didn't put any
25 applications. If there were applications that

1 were processed after that, that was before I
2 told them that I wasn't going -- there was some
3 still in the --

4 Q. They are aware that that is how UH
5 is doing it?

6 A. Yes.

7 Q. It is no secret to them now?

8 A. No.

9 Q. And CGS continues to process
10 applications; correct?

11 A. Well, they will continue process
12 applications if they continue to tell them that
13 they can be reached there directly.

14 Q. But you told them what the reaching
15 there directly means?

16 A. Yes, but that's on them.

17 Q. That is on them. That's right.

18 Now, CGS never made any threats to
19 you that if you continue to do that that they
20 would find you guilty of fraud; did they?

21 A. No.

22 Q. They never said it was criminal if
23 you continued to use that phone number; did
24 they?

25 A. No.

1 - - - - -

2 (Thereupon, Defendant's Exhibit 31,
3 e-mail correspondence from Victoria
4 Johnson, was marked for purposes of
5 identification.)

6 - - - - -

7 Q. Now, on that same day, I will show
8 you what I have marked as Exhibit 31, you sent
9 that full e-mail chain that was Exhibit 30, you
10 sent that to your house; correct?

11 A. Yes.

12 Q. You sent that to your home e-mail?

13 A. Wait. Which one?

14 Q. Exhibit 31?

15 A. It says, yeah, from Victoria
16 Johnson to bronxvikki.

17 Q. So you sent the information related
18 to Dr. Gupta's application to your personal
19 e-mail; correct?

20 A. Yes.

21 Q. And that's while you were working
22 at UH?

23 A. Yes.

24 - - - - -

25 (Thereupon, Defendant's Exhibit 32,

1 e-mail correspondence from Carole
2 Meisler dated July 24, 2012, was
3 marked for purposes of
4 identification.)

5 - - - - -

6 Q. Showing you what I have marked as
7 Exhibit 32.

8 You see that Carole is advising you
9 that she spoke to Shamekia's supervisor;
10 correct?

11 A. Yes.

12 Q. So somebody over Shamekia's job
13 responsibilities; correct?

14 A. Yes.

15 Q. And per that supervisor of
16 Shamekia's, she said that you should tell
17 Shamekia that the provider will not pick up the
18 telephone, but as part of the job description,
19 you get any message from him or her, that you
20 will contact the provider for CGS as part of
21 your job.

22 Did you see that?

23 A. Yes, I see that.

24 Q. Now, that is true, isn't it, that
25 as part of your job if they needed you to

1 contact the provider you would do that; right?

2 A. That's what they told me to do. I
3 don't know if it was within my job description.

4 Q. And so did that happen, did
5 Shamekia call?

6 A. Shamekia called and asked if I --
7 if she was able to contact the provider there
8 directly and I told her no.

9 Q. Did you give her this answer, that
10 the provider will not pick up the telephone,
11 but as part of your job description, you get
12 any message to him or her and that you will
13 contact the provider for CGS as part of your
14 job, did you do what you were asked to do?

15 A. There is an e-mail that I sent to
16 -- I told her the doctor could not be reached
17 directly, but I would give him a message.

18 Q. So you didn't use this exact
19 language that your supervisor asked you to use?

20 A. Right.

21 Q. Was there something wrong with this
22 language?

23 A. Because the doctor could not be
24 reached there directly.

25 Q. But that's what it says here;

1 right?

2 A. It says that they can, but they
3 cannot.

4 Q. It says that the provider will not
5 pick up the telephone, that's correct; right?

6 A. That's correct.

7 Q. And as part of your job description
8 you get any message to him or her that you will
9 contact the provider for CGS as part of your
10 job. That's all -- you could have done all of
11 that; right?

12 A. Per the supervisor, tell Shamekia
13 that the provider will not pick up the phone,
14 right, correct, because they are not at that
15 location, but as part of your job description
16 she made me -- I guess she incorporated that as
17 part of my job description now, to get them a
18 message.

19 Q. Did you have an actual job
20 description?

21 A. I don't believe it's in the packet.

22 Q. Did you go look to see if it was
23 part of your job description?

24 A. No, I don't have a copy of my job
25 description.

1 Q. On July 24th?

2 A. No.

3 Q. Did you look to see if it was in
4 your job description?

5 A. No.

6 Q. Did you have a job description?

7 A. Yes, I believe you have to have one
8 in order for you to apply for the position.

9 Q. So you didn't go look at that?

10 A. No, this was something that was
11 created at this, I guess, this particular
12 scenario, so I don't even know if it would be
13 part of that.

14 Q. Now, this is what -- this isn't
15 something that Carole came up with, this is
16 something that Shamekia's supervisor said
17 should be done; correct?

18 MR. HERRON: Objection.

19 THE WITNESS: Go ahead.

20 A. Well, this is what Carole said
21 Shamekia's supervisor said to her.

22 Q. So per her supervisor, so that is
23 coming from CGS; correct?

24 MR. HERRON: Objection.

25 A. Correct. Well, so Carole says.

1 Q. Why would Shamekia be more correct
2 than her supervisor?

3 MR. HERRON: Objection.

4 A. I don't know.

5 - - - - -

6 (Thereupon, Deposition Exhibit 33,
7 e-mail correspondence from Victoria
8 Johnson dated July 24, 2012, was
9 marked for purposes of
10 identification.)

11 - - - - -

12 Q. Handing you what I have marked as
13 Exhibit 33.

14 Now, from page four back, that's
15 all a copy of what we have already looked at.
16 The new starts on page three.

17 And there's an e-mail from you to
18 Shamekia. And you're telling Shamekia, now,
19 that is how I always interpret that. I'm not
20 sure where our compliance officer is getting
21 her information from. However, she asked that
22 we ask to get a supervisor's name if we have
23 trouble enrolling. I have always had
24 reservations by putting our phone number simply
25 by what section 2B states. This needs to be by

1 management as all the provider enrollment
2 representatives follow the same procedure. Is
3 there any way your management can follow-up on
4 this matter?

5 So now you have clearly told
6 Shamekia that everybody does it this way;
7 correct?

8 A. It says, this is how I have always
9 interpreted it.

10 Q. You say to her in the second
11 paragraph, as all the provider enrollment
12 representatives follow the same procedure. You
13 are telling her that everybody here does it the
14 same way; correct?

15 A. Correct.

16 Q. So now you have told her, it's not
17 just me that puts down my phone number and what
18 happens is, if you call me and I have to
19 contact the doctor, everybody here does it;
20 correct?

21 A. Correct.

22 Q. So there no secret by CGS as to
23 what is happening and how these enrollments are
24 taking place; correct?

25 A. That's true.

1 MR. HERRON: Objection the term
2 having to speculate what CGS does or doesn't
3 know.

4 Q. Well, you told them?

5 A. I told them, yes.

6 Q. You came right out and told them
7 what was happening?

8 A. Right. Right.

9 Q. So if they decided to process
10 applications after you told them, then they are
11 accepting that as the procedure; correct?

12 A. I guess they are.

13 MR. HERRON: Objection.

14 It requires you to speculate as to
15 what they are accepting or not accepting.

16 A. Okay.

17 Q. And so then the next one is, the
18 next e-mail there is from Shamekia and she
19 tells you that her supervisor's name is Paula
20 Paty; correct?

21 A. Correct.

22 Q. And she tells you that she is going
23 to advise Paula about the whole issue; correct?

24 A. Yes.

25 Q. So she is going to probably forward

1 her --

2 A. The issue.

3 Q. -- the e-mails as you have
4 described what happens; correct?

5 A. Correct.

6 Q. So now you know it is not only
7 Shamekia that knows, but a supervisor there;
8 correct?

9 A. Correct.

10 Q. And so then you write to Shamekia
11 after that and you say, I could not verify that
12 the provider can be reached at this number or
13 is located at this building. Please note my
14 return e-mail information below. The number
15 listed on the application is that of my desk.
16 If you wish to call back, I will not answer and
17 my name will be identified on the voicemail. I
18 can, however, forward a message to them.

19 That couldn't be clearer as to what
20 is happening; could it?

21 A. Right.

22 Q. If they went ahead and processed
23 Gupta's application, then they are doing that
24 knowing what the verification process is at UH;
25 correct?

1 A. Correct.

2 Q. And then you forwarded that e-mail
3 onto yourself?

4 A. Yes.

5 - - - - -

6 (Thereupon, Defendant's Exhibit 34,
7 e-mail correspondence from Victoria
8 Johnson dated July 26, 2012, was
9 marked for purposes of
10 identification.)

11 - - - - -

12 Q. This is Exhibit 34.

13 Now, I note that Exhibits 32 and
14 33, that the time frame where you're having
15 these conversations is, starts --

16 A. Before I was sent to EAP.

17 Q. -- starts on July 19th and then
18 ends on July 24th; right?

19 On Exhibits 32 and 33, the
20 correspondence starts on July 19th and it ends
21 on July 24th; correct?

22 A. Correct.

23 Q. So now we are on Exhibit 34 and you
24 will note that that starts on July 19th;
25 correct?

1 A. Wait. Exhibit 34 that starts on
2 July 19th at 3:09.

3 Q. So at the same time you are writing
4 Shamekia at CGS about this issue you are
5 writing Andrew Baumann; correct?

6 A. Well, this is the e-mail that I got
7 for Dr. Stone, the one that you couldn't figure
8 out when I had, so I also had a copy of the
9 e-mail.

10 Q. Right. You had the letter, we
11 looked at the letter earlier; right?

12 A. Correct.

13 Q. So this is where you got the e-mail
14 rejecting the application?

15 A. Right.

16 Q. And you respond on July 20th and
17 you say, can you please clarify what CGS
18 expectations are when asking if the provider
19 can be reached directly at this number and what
20 number should be listed in 2B.

21 Same question you asked Shamekia;
22 correct?

23 A. Correct. They are two people that
24 are giving me the same answer and the provider
25 is giving me a different answer.

1 Q. So you are asking two different
2 people at the same time at CGS; right?

3 A. Yes. And this I have in black and
4 white.

5 Q. You had the other in black and
6 white, as well; right?

7 A. Nothing from Shamekia's supervisor
8 in black and white.

9 Q. But from Shamekia you have it?

10 A. From Shamekia?

11 Q. Yes.

12 A. That she was told to -- no, I had
13 in black and white from Carole that Shamekia
14 was going to call me.

15 Q. Okay. So, then, Andrew gives you
16 his answer that for section 2B, the phone
17 number should be a number that either a
18 voicemail or person can identify that the
19 number is a valid number or contact the
20 provider, so either a home number that the
21 voicemail identifies the provider or the
22 location where the provider will be working.
23 If you have any other questions feel free to
24 ask; right?

25 A. Right.

1 Q. That's what Andrew tells you?

2 A. Yes.

3 Q. And you forward that on to Steve
4 and Sheryl and Sheryl; correct?

5 A. Uh-huh, yes.

6 Q. And ask what number you should use
7 because you no longer want to participate in
8 telling CGS that the provider can be reached at
9 this location, as most of them are located at
10 main campus; correct?

11 A. Correct.
12 Did I say most or all?

13 Q. You said most.

14 A. Where is that?

15 Q. At the bottom of page two.

16 A. Oh, when I say most of them are
17 located at the main campus. There is some at
18 the main campus, there is some at Geauga, there
19 is some at Richmond Hospital, but none at the
20 central billing office.

21 Q. So would it fix it for you if you
22 were mobile at the time you put in each
23 application you moved from doctor's office to
24 doctor's office to doctor's office?

25 A. Can you ask me that again?

1 Q. Would you think that it was more
2 appropriate for you to use your phone number if
3 you moved from doctor's office to doctor's
4 office to doctor's office when you put the
5 applications in?

6 A. No, they asked for their cell phone
7 number. They don't expect them to answer, but
8 they ask for their cell phone number or their
9 house number, they don't expect them to answer.
10 They were not given the opportunity to put a
11 number there. We pre-populated that.

12 Q. The next e-mail is to Sheryl, you
13 say, thanks for verbally instructing me to use
14 your number on the applications, I will now do
15 it from now on. But you didn't do that; right?

16 A. No, because I didn't continue to
17 fill out the application.

18 Q. Okay. And then you write, on July
19 23rd, you write that you needed a phone number
20 to populate 2B. And then you say, I know
21 during our weekly meetings the ongoing joke is
22 that the provider enrollment team will one day
23 be walking out of here in pink and orange
24 jailhouse jumpsuits, which I no longer find
25 amusing.

1 So at one time you did find it
2 amusing?

3 A. I didn't say I found it amusing. I
4 would say, I would no longer deal with it, is
5 what I meant to say.

6 Q. And then you say, I would also like
7 a copy of the two corrective actions that were
8 presented to me after my review that were
9 referencing providers Moonda and Schuld?

10 A. Right.

11 Q. I would like to have this in
12 writing; is that correct?

13 A. Yes.

14 Q. And then you sent this e-mail chain
15 to your house; correct?

16 A. Yes. Am I talking to the person
17 from -- my friend from D.C. I don't know
18 whether I felt that we would be audited. I
19 just wanted to provide documentation that we
20 were told to do this.

21 Q. Let me show you what I will mark as
22 35.

23 - - - - -

24 (Thereupon, Defendant's Exhibit 35,
25 e-mail correspondence from Victoria

1 Johnson dated July 27, 2012, was
2 marked for purposes of
3 identification.)

4 - - - - -

5 Q. This is, again, starts on July
6 19th; correct?

7 A. From the last page?

8 Q. Yes.

9 MR. HERRON: Next to the last page.

10 A. Yes.

11 Q. And this is a response you got from
12 Un Kim; correct?

13 A. Correct.

14 Q. And you send that on to Carole and
15 say, this confirms my previous e-mail; correct?

16 A. Correct.

17 Q. And then Carole tells you on July
18 19th, this is now the third person at CGS that
19 you are asking about this; correct?

20 A. Yes, because I got another denial.

21 Q. And Carole says, I understand your
22 confusion, but the current form does not state
23 what you were told. And she then lists what
24 was in all these other e-mails from the people.

25 And then she tells you that the

1 current CMS 885I states: Provide contact
2 information for the person shown in section 2A
3 above. Once enrolled, the information provided
4 below will be used by the fee-for-service
5 contractor if it needs to contact you directly.

6 Per CGS, physician's support staff
7 can answer the phone and give a message to the
8 physician. Any other questions?

9 So she says, look, these people, Un
10 Kim, the fellow and Shamekia have cited the
11 wrong section to you, it's not even applicable
12 anymore, here's the applicable section, and I
13 have talked to the supervisors and they are
14 accepting of the way we were doing this; right?
15 That's what you are being told?

16 A. Yes.

17 Q. Okay. But despite all of that you
18 determine that you know better; is that right?

19 MR. HERRON: Objection.

20 A. Excuse me?

21 Q. You decide that you know better
22 than Carole knows; correct?

23 A. I don't feel I know better. I am
24 going by what I see in writing.

25 Q. But what you are following is what

1 you are getting from CGS in writing instead of
2 what the people at UH, who are charged with
3 determining what the right way to go is --

4 MR. HERRON: Objection.

5 Q. -- are sending you in writing;
6 correct?

7 MR. HERRON: Objection.

8 Pre-supposes that it is up to UH to
9 decide how to comply with the Medicare,
10 Medicaid regulations.

11 Q. You can answer.

12 MR. HERRON: If you know?

13 THE WITNESS: If I know?

14 MR. HERRON: If you know.

15 A. I don't know.

16 Q. But you said you're going by what
17 you have in writing?

18 A. Yes, I'm going by what I have in
19 writing.

20 Q. You have from Carole in writing
21 what the applicable section is and what you
22 should do?

23 A. What I have in writing from the
24 denial letter versus what Carole is telling me.

25 Q. Okay. Do you agree with me that if

1 CGS says that this procedure is okay, then it's
2 okay?

3 A. If they said it and not produced
4 documents, I would probably believe the
5 documents that I see in front of me.

6 Q. Okay. So you would determine that
7 your reading of what it means to be reached is
8 preferable and more important than what CGS
9 says?

10 MR. HERRON: Objection.
11 Mischaracterizing her testimony.

12 A. I'm not understanding that
13 question.

14 Q. Okay. Now, Carole writes you later
15 in the day on July 19 and said, good news, I
16 spoke to Ms. Kim. Per Ms. Kim there is no
17 problem for UH to use UH's telephone numbers as
18 the contact number in the application. There
19 is no expectation that the physician will
20 answer directly. I was very clear with her
21 regarding your concerns and she assured me that
22 UH complies with CGS' expectation.

23 Now, this is the person that sent
24 you the denial letter?

25 A. Right. But she also said, per Ms.

1 Kim. She works with a large hospital that
2 provides a hospital main telephone number and
3 the operator answers the phone. So now I have
4 three other scenarios. One, we can give them a
5 message, the next one, we can have the hospital
6 operator answer the phone. It's --

7 Q. So when you faced with this
8 confusion isn't it rational to follow what UH's
9 compliance is telling you to do?

10 A. It is not national because the
11 compliance office is giving me two or three
12 different versions.

13 Q. Okay. Then you tell Carole,
14 despite Carole telling you what she has done,
15 that you are going to call them and make sure
16 that you are interpreting CGS's expectations
17 correctly; right?

18 A. Yes, which I have done, and they
19 continually send me what it says in section 2B.

20 Q. And then you tell, Carole, and by
21 the way, I'm going to have the providers
22 complete section 2B themselves, I'm not going
23 to populate that anymore; right?

24 A. Yes. I'm not going to do it
25 anymore.

1 Q. And then you have, I guess some
2 more communications with Kim. And you say that
3 you just received an e-mail from Kim stating
4 that we can populate the application with the
5 main hospital number per CGS. Please let Steve
6 Riddle know that this is their policy as we can
7 no longer use CBO's phone number. I am sure
8 the department will be happy to hear this.
9 Thanks for your help.

10 So now, based on your
11 communications with Kim, after Carole has
12 already communicated with them, you are telling
13 everybody that they can use the main hospital
14 number; right?

15 A. Wait. I just received an e-mail
16 from Kim saying we can populate the application
17 with the main hospital number per CGS, please
18 let Steve Riddle know that this is their
19 policy. And I -- I said the department will be
20 happy to use this -- to hear this.

21 We wouldn't have to answer the
22 phone and lie anymore, saying that they could
23 be reached.

24 Q. Where is this e-mail from Kim? Did
25 you send them home to yourself?

1 A. I received an e-mail from Kim
2 stating that we -- that's the one that I got
3 from Carole Meisler.

4 Q. You say, I just received an e-mail
5 from Kim?

6 A. I just received an e-mail from Kim?

7 Q. Do you have that e-mail?

8 A. No, I would probably be referring
9 to -- let me see, this was July 19th at 4:58,
10 so I went home at -- probably. And then the
11 next morning I came in and probably read the
12 e-mail. So, no, I don't have anything at home.

13 Q. So you didn't keep that e-mail from
14 Kim?

15 A. That was the one from Carole.

16 Q. No, it says you just received an
17 e-mail from Kim.

18 A. Well, I can't say I got it directly
19 from Kim, but it's the one that Carole sent
20 from Kim.

21 Q. But you're writing to Carole. Why
22 would you write that to Carole? Carole is the
23 one that told you that she talked to Kim.

24 A. Wait. Stating that we can populate
25 the e-mail -- well, yeah. Then, I was probably

1 saying that I received the e-mail, because
2 Carole sent me the e-mail and the same people
3 are referenced in the e-mail, so I was probably
4 responding back to Carole. It had the entry
5 number, important, yeah. I -- I don't have any
6 e-mail from Kim.

7 Q. All right. If you look at the page
8 before that, you cut and paste something that
9 doesn't have a date on it or anything from Kim?

10 A. Which one.

11 Q. It says per Kim, you may use the
12 hospital operator number as long as they will
13 verify that the provider can be reached at that
14 number.

15 Do you see, it doesn't have any
16 date or anything?

17 A. Yeah. Maybe I did get an e-mail
18 from Kim. I don't know.

19 Q. And then basically you are
20 telling --

21 A. Sometimes you can get an e-mail and
22 the transition part, you know.

23 Q. And, then, basically you are just
24 telling Carole in your July 20th e-mail at 10
25 o'clock, clarify with Steve what number other

1 than central billing office we should be using
2 as the existing number is not in compliance?

3 You've decided, contrary to the
4 compliance department and the head of UH's
5 compliance, with years of experience with
6 regulatory compliance --

7 MR. HERRON: Objection.

8 Q. -- you've determined that what you
9 are doing isn't in compliance; is that correct?

10 MR. HERRON: Objection.

11 We are not going to assume that she
12 is anywhere accurate, anything that she said
13 about the issue of compliance, we are not
14 accepting that as accurate.

15 Q. Are you going to answer the
16 question?

17 A. I can't answer the question.

18 Q. You can't answer that question?

19 A. Well, I will agree with what my
20 attorney said.

21 Q. Because of what your attorney said
22 you can't answer?

23 A. It's not because of what he said,
24 it's the truth of what he said.

25 Q. You're not going -- you're telling,

1 on July 20th at 10 o'clock, you are saying to
2 compliance, Carole Meisler, and to the head of
3 compliance, Sheryl Wahl, that they have to come
4 up with a number other than central billing
5 office because the existing number is not in
6 compliance; right?

7 A. Yes. I believe there was an e-mail
8 from Sheryl Wahl, too, that said that -- I
9 think that there was an e-mail from her that
10 said I had an issue with using the CBO number.

11 Q. Okay. And then you basically tell
12 Carole that you are going to wait to hear from
13 Steve and it has to be in writing as to what
14 number you are going to use; right?

15 A. Yes.

16 - - - - -

17 (Thereupon, Defendant's Exhibit 36,
18 e-mail correspondence from Jill
19 Fulton-Royer dated July 27, 2012,
20 was marked for purposes of
21 identification.)

22 - - - - -

23 Q. Showing you what have I marked as
24 Exhibit 36.

25 So, July 20th, at 10 o'clock you

1 say you're not going to -- you're going to wait
2 for a number, this one is not in compliance.
3 At 10:22 you reiterate that you're not going to
4 process anything. And, then, at 12:23, a
5 couple hours later, you say you are going home,
6 you have a headache and blurred vision; is that
7 correct?

8 A. Yes.

9 Q. Did you go to the doctor that day?

10 A. No, I went home. I believe I went
11 home. I may have went gone to the doctor's
12 office.

13 Q. Do you know what you did?

14 A. No, I don't recall.

15 Q. Were you able to drive with your
16 blurred vision?

17 A. Yes.

18 Q. Were you able to engage in your
19 real estate business with the blurred vision?

20 A. I don't recall if I engaged that
21 day in real estate.

22 Q. But while this is going on with the
23 applications and what have you, you are
24 engaging in your real estate business in part
25 from your desk at UH; correct?

1 A. I don't recall. And if I did it
2 was probably on my break.

3 Q. Did you have set break times?

4 A. Excuse me?

5 Q. Did you have set break times?

6 A. No.

7 Q. You just took your break whenever
8 you wanted to?

9 A. Yes, everyone did.

10 Q. Did you have to sign out for your
11 break?

12 A. No. Wait a minute. Did we have to
13 sign out? I know the policy changed at some
14 point. I know, yeah -- I don't remember.

15 - - - - -

16 (Thereupon, Defendant's Exhibit 37,
17 e-mail correspondence from Jill
18 Fulton-Royer dated July 27, 2012,
19 was marked for purposes of
20 identification.)

21 - - - - -

22 Q. Showing you what I have marked as
23 Exhibit 37.

24 This is the July 23rd, 2012 e-mail
25 from Steve Riddle to everybody saying that

1 there is no more sleeping at work stations; is
2 that correct?

3 A. Correct.

4 Q. And in response to that no more
5 sleeping in the work stations, you say to him,
6 please, note that drowsiness is a side effect
7 that I'm experiencing while taking my
8 prescribed stress medication. And, then, what
9 is that, a definition of drowsiness or
10 something that you put in there?

11 A. People who are drowsy may fall
12 asleep in inappropriate situations or at
13 inappropriate times, yes.

14 Q. Is that something like you went on
15 the Web and Googled the word drowsiness and
16 then cut and pasted it in here or what?

17 A. Probably.

18 Q. And why are you telling him that
19 you are drowsy, does that mean that you should
20 be able to sleep at your work station?

21 A. I don't want him to interpret my
22 sleeping as intentional because he told us not
23 to do it.

24 That's interesting, this came
25 after --

1 MR. HERRON: Wait until she asks
2 you a question.

3 Q. What did you want to say?

4 A. It's interesting that we got this
5 e-mail after the application process.

6 Q. Is it possible that you got this
7 because you have gotten medication in June and
8 started sleeping more at your desk?

9 A. Is it possible that I could have
10 gotten --

11 Q. That you started sleeping more at
12 your desk and it created an issue and that's
13 why it came out now?

14 A. It came out when? This day?

15 Q. Yes.

16 Is it possible that the reason it
17 comes out now has nothing to do with the
18 application, but rather because you were
19 sleeping more often at your desk?

20 MR. HERRON: Objection.

21 This pre-supposes that she knows
22 what their motives were.

23 She can answer if she knows what
24 their motives were.

25 A. I don't know what their motives

1 were.

2 Q. So you don't know if it was tied to
3 the applications either; do you?

4 A. No, I don't.

5 Q. No you don't, is that what you
6 said?

7 A. Can you rephrase the question?

8 Q. If you don't know what their
9 motivations were, you don't know if they were
10 tied to the application process; right?

11 A. No, I said it was just a
12 coincidence that it came out after.

13 Q. Right.

14 - - - - -

15 (Thereupon, Defendant's Exhibit 38,
16 Hand Delivered letter dated July 23,
17 2012, was marked for purposes of
18 identification.)

19 - - - - -

20 Q. Handing you what I have marked as
21 Exhibit 38.

22 So you got a letter on July 23rd
23 from the vice-president and chief compliance
24 officer of University Hospitals; correct?

25 A. Correct.

1 Q. Sheryl Wahl; right?

2 A. Correct.

3 Q. And she said that her office and
4 Carol Meisler in particular had confirmed that
5 the use of the telephone number was allowable
6 and correct; correct?

7 A. Correct.

8 Q. And they, in fact, had taken your
9 complaint about it very seriously; correct?

10 MR. HERRON: Objection.

11 A. That I don't know.

12 Q. Well, the same day that you said
13 that there were issues, the compliance officers
14 started making phone calls and talking to CGS;
15 didn't they?

16 A. Yes.

17 MR. HERRON: Objection.

18 Q. Your answer?

19 MR. HERRON: If you have personal
20 knowledge that they contacted CGS you can
21 answer, if you don't have personal knowledge,
22 don't guess or speculate.

23 A. I don't have personal knowledge.

24 Q. Well, you were told they did that?

25 A. Right. I didn't actually see them

1 make the phone calls.

2 Q. Right. Your complaint certainly
3 wasn't ignored; was it?

4 A. No, it wasn't.

5 Q. They acted on it and communicated
6 about it; didn't they?

7 A. Correct.

8 Q. Do you know what Sheryl Wahl's
9 background or experience is?

10 A. Yes, she said she's compliance
11 office.

12 Q. Do you know what her experience is
13 with compliance?

14 A. No, I don't.

15 Q. Did you do any investigation to
16 find out whether or not she was a person you
17 could rely on?

18 A. No, I did not.

19 Q. Did you do any investigation of
20 anybody at CGS to find out if they were people
21 they could rely on?

22 A. An investigation, no, I did not.

23 Q. Did you do anything to try to
24 determine who was more reliable, the people
25 that e-mailed you from CGS or Sheryl Wahl?

1 A. I would have no way of
2 investigating. I could only apply the denial
3 letters.

4 Q. Did you know who would have more
5 knowledge about what was appropriate on an
6 855I, section 2B?

7 A. No.

8 Q. Now, you will agree that as of July
9 25th, 2012 you were having some impaired
10 functioning; correct?

11 MR. HERRON: Objection.

12 A. No, I don't agree.

13 Q. You don't agree?

14 A. That's what I was told by my
15 supervisor.

16 Q. Well, on July 26th you called your
17 doctor up and asked him for FMLA leave because
18 of severe depression; right?

19 A. Anxiety. If it says depression,
20 yes, I guess it is depression.

21 Q. You wouldn't have gone out on or
22 asked your doctor to support your going out on
23 leave unless you had impaired functioning;
24 would you? You wouldn't fake that?

25 A. It was elevated when they called me

1 into the office and started telling me that I
2 was impaired.

3 Q. So you did have impaired
4 functioning?

5 A. They told me that.

6 Q. So on the 25th you weren't
7 impaired, but on the 26th you were?

8 A. I believe my anxiety attacks
9 elevated or escalated when in certain
10 situations.

11 Q. And you were feeling a lot of
12 stress at work; correct?

13 A. Correct.

14 Q. And your stress was elevated by the
15 issues around the signatures and the phone
16 numbers; correct?

17 A. Right.

18 Q. And, in fact, you told the people
19 at UH that you had been thinking about going
20 out on FMLA; correct?

21 A. I had told them I had talked to my
22 doctor, yes.

23 Q. Now, you wouldn't have gone out on
24 FMLA leave unless you were impaired in your
25 functioning; would you?

1 A. I wouldn't say I was impaired in my
2 functioning, I was able to process the
3 applications as you can clearly see. I was
4 able to process other things, but I felt
5 probably at the time, that because, you know,
6 they kept raising the issue of the applications
7 and so forth that I just maybe at that time I
8 just felt I needed a break.

9 MR. HERRON: Speaking of breaks, I
10 need to take a bathroom break.

11 MS. KAMINSKI: Okay.

12 MR. HERRON: So take a few minutes.

13 (Short recess had.)

14 Q. What time was the meeting on July
15 26th?

16 A. I don't recall exactly, somewhere
17 around 10, 10:30.

18 - - - - -

19 (Thereupon, Defendant's Exhibit 39,
20 e-mail Correspondence from Sheryl
21 Johnson dated July 26, 2012, was
22 marked for purposes of
23 identification.)

24 - - - - -

25 Q. Showing you what I have marked as

1 Exhibit 39.

2 If you look at page two of Exhibit
3 39 from your home e-mail you sent to Sheryl
4 Johnson at 1:32 on July 26th that you weren't
5 feeling well and would not be in the rest of
6 the day nor tomorrow or Friday; correct?

7 A. Yes.

8 Q. And so that's after they have asked
9 you to go to EAP to have a fit for work
10 evaluation; correct?

11 A. Correct.

12 Q. You say you are not feeling well.
13 How were you feeling?

14 A. I don't recall. Probably stressed.

15 Q. In particular how is it that your
16 stress embodied itself?

17 A. That I don't recall. I guess it is
18 probably stress. I can't say exactly for sure.

19 Q. When you say you were feeling
20 stress. How is it that you feel stress? What
21 happens to your body; anything?

22 A. I get a headache.

23 Q. Anything else?

24 A. That's pretty much it.

25 Q. So as a result of having a

1 headache, feeling stressed, at 1:30 on Thursday
2 you know you're not going to be in the rest of
3 that day or tomorrow or Friday; is that right?

4 A. Yes.

5 Q. And then an hour later you say, my
6 physician and I discussed my need to go on
7 medical leave, but you didn't really talk to
8 your doctor that day; right?

9 A. On the 26th?

10 Q. Yes, when we went through your
11 medical records I asked if you had talked to
12 your doctor that day and you said no?

13 A. On the 26th, I said I don't recall
14 if I talked to him, if I picked up the FMLA
15 paper that day or talked to him, one or the
16 other. But, then again, I think I said I did
17 see him. I dropped off the paperwork.

18 Q. You dropped off the paperwork?

19 A. I dropped off the paperwork. I
20 didn't talk to him. He was with a patient,
21 correct.

22 Q. This was inaccurate that you
23 discussed it with them?

24 A. No, I said I didn't discuss it that
25 day. I discussed it with him earlier. Not

1 earlier that day, just earlier in general.

2 Q. So that was more than a month
3 earlier that you talked to him?

4 A. I don't know exactly when.

5 Q. We looked at your medical records
6 and that is when you talked to him, one month
7 earlier?

8 A. One month earlier that was the last
9 time, so that's probably when it was.

10 Q. And then you say that she can send
11 the paperwork for EAP appointment via certified
12 mail.

13 Why were you mandating that they
14 send something to you certified mail?

15 A. They said that they were going to
16 send it certified mail, they were going to send
17 it regular mail and messenger, which is
18 indicated on there.

19 - - - - -

20 (Thereupon, Defendant's Exhibit 40,
21 e-mail Correspondence from Christina
22 Morrison dated July 30, 2012, was
23 marked for purposes of
24 identification.)

25 - - - - -

1 Q. Showing you what I have marked as
2 Exhibit 40.

3 So, now, on the 26th your doctor
4 has said that you are suffering from a major
5 depression and can't work for a couple of
6 weeks.

7 A. Where is it in this?

8 Q. And this is on the 27th in the
9 evening, you write this e-mail to Christina; is
10 that correct?

11 A. Wait. Where does it say that my
12 doctor --

13 Q. Earlier in the exhibits, you can
14 look back at it, signed on the 26th.

15 A. Okay. If you tell me it's in
16 there.

17 What were you asking me?

18 Q. So on the 26th you ask your doctor
19 if he'll sign the paperwork for you to be off
20 work; correct?

21 A. Correct.

22 Q. And then while you were off work
23 with stress, you write Christina and ask for
24 your reviews to be sent to you by e-mail; is
25 that correct?

1 A. Yes.

2 Q. Isn't that just trying to add some
3 stress to you?

4 A. I'm stressed, I'm not dead. I
5 wasn't dead.

6 Q. So you could still function well
7 enough to want to see those reviews; right?

8 A. Yes.

9 Q. And the stress didn't keep you from
10 continuing to confront Christina about
11 something that you wanted and thought was
12 wrong; correct?

13 A. Correct. I probably felt more
14 stressed being in their presence as opposed to
15 being home.

16 Q. Did you ever contact the Ohio
17 Attorney General about anything at UH?

18 A. Ohio Attorney General?

19 Q. No?

20 A. Is that regarding the medication,
21 my medication?

22 Q. Regarding anything. Did you
23 contact the Ohio Attorney General?

24 A. I don't recall.

25 Q. Why on August 2nd did you decide

1 you should have some of your personal
2 belongings picked up?

3 A. I left my shoes there, which they
4 denied giving to me. They denied me access to
5 the building. There were some calendars,
6 personal calendars. There were two note pads
7 that I asked for that they never gave me.

8 Q. So you never got these items?

9 A. The pads, I never got. The shoes
10 were there when I came back on October 8th and
11 the calendars were there when I came back on
12 October 8th.

13 Q. What were on these pads?

14 A. Personal stuff. Some personal -- I
15 believe I had one personal and one office.

16 Q. And what kind of stuff?

17 A. Things I would jot down, you know,
18 in terms of my appointments or if I needed to
19 call someone and some stuff with regard to the
20 doctor's meeting minutes.

21 - - - - -

22 (Thereupon, Defendant's Exhibit 41,
23 Department of Health and Human
24 Services Form dated August 4, 2012,
25 was marked for purposes of

1 identification.)

2 - - - - -

3 Q. I'm going to hand you what I have
4 marked as Exhibit 41.

5 Did you fill this out on October
6 4th as indicated there? August 4th, 2012?

7 A. August 4th, it has my signature on
8 it.

9 Q. Did you go to the Department of
10 Health and Human Services to fill this out or
11 how did you do this?

12 A. Oh, this is -- I think I sent them
13 an e-mail.

14 Q. And why did you decide to take this
15 action on August 4th?

16 A. No particular reason. I know that
17 I was stressed. And I am until this day about
18 her talking about my medication.

19 Q. Even though you don't know anybody
20 that heard it and she didn't know what
21 medication?

22 A. Well, the obvious fact is that she
23 did it.

24 Q. Do you know what happened with this
25 complaint?

1 A. I believe they told me that they
2 weren't the ones who handled this type of
3 complaint, that I would have to make it to
4 someone else. I forgot --

5 Q. What about August 4th led you to
6 want to make a complaint about this issue?

7 A. I don't recall.

8 Q. You were out on leave; correct?

9 A. Uh-huh.

10 Q. Yes?

11 A. Yes.

12 - - - - -

13 (Thereupon, Deposition Exhibit 42,
14 HIPPA Complaint, was marked for
15 purposes of identification.)

16 - - - - -

17 Q. Let me show you what I have marked
18 as Exhibit 42.

19 To whom did you send this?

20 A. I don't recall. I think this was
21 attached to this.

22 Q. You think that Exhibit 42 was
23 attached to Exhibit 41?

24 A. Yes.

25 Q. So this was part of your complaint

1 to the --

2 A. I don't recall exactly.

3 Q. Did you make a complaint to anybody
4 other than the Health and Human Services?

5 A. I don't recall. I think this has
6 to do with this.

7 Q. While you were on leave did you go
8 back to see Dr. Headen?

9 A. I don't remember. I know I went to
10 -- I got the FMLA paperwork. I saw Dr. Dutton.
11 I saw Dr. Abbass. I don't think I did.

12 Q. When Dr. Dutton told you he
13 wouldn't take you on as a patient did you go
14 back to Dr. Headen?

15 A. I'm not sure.

16 Q. Did you just quit the Zoloft on
17 your own?

18 A. Yes.

19 Q. Did you do it by tapering off or
20 did you just quit?

21 A. I don't recall.

22 Q. Did you do it under a doctor's
23 care?

24 A. Did I do it under a doctor's care?

25 Q. Did a doctor give you instructions

1 to go off the Zoloft and --

2 A. I did it on my own.

3 Q. I did it on my own?

4 A. Uh-huh.

5 Q. Have you gone on any other
6 antidepressants?

7 A. No.

8 Q. Have you seen any other doctors for
9 emotional difficulties?

10 A. Seen a doctor for emotional
11 difficulties, no.

12 Q. For anxiety?

13 A. No.

14 Q. So since you saw Dr. Dutton you
15 have not been treated for anxiety?

16 A. I don't believe so.

17 Q. Well, you would know; wouldn't you?

18 A. Yes.

19 Q. So is the answer, no, you have not
20 been treated?

21 A. Let me see, since Dr. Dutton, that
22 would be October. I don't believe so.

23 Q. Now in September of 2012 were you
24 planning on going back to work at University
25 Hospitals?

1 A. In September?

2 Q. Yes.

3 A. Yes.

4 Q. And then on October 1st you got the
5 letter saying come back by October 8th;
6 correct?

7 A. Yes. They never gave anything to
8 me, never gave me a return -- Kathy Springer
9 never gave me a return back to work.

10 Q. But then they wrote you and said
11 come back to work October 8th; correct?

12 A. Right.

13 Q. And did you write or try to talk to
14 anybody about your return to work date in
15 September?

16 A. That I don't recall. I received a
17 letter stating that my FMLA had ran out on the
18 21st. I don't recall getting something to say
19 that I was approved on FMLA. I had applied for
20 unemployment and they just left me in limbo.

21 Q. Were you writing Kathy saying when
22 can I come back to work?

23 A. She wrote me saying I couldn't come
24 back without a doctor's note.

25 Q. Did you go to the doctor and try to

1 get the doctor's note to go back to work?

2 A. I thought the notice I got from Dr.
3 Dutton was sufficient.

4 Q. Dr. Dutton's ran out September 4th;
5 right?

6 A. Yes.

7 Q. So did you ever see a doctor or
8 anything to say that for the month of September
9 you needed to be out --

10 A. They were responsible for putting
11 me on unpaid administrative leave, so I was
12 interpreting that they would give me -- well,
13 she said I couldn't return.

14 Q. Let me show you what I have marked
15 as Exhibit 43.

16 - - - - -

17 (Thereupon, Defendant's Exhibit 43,
18 Charge of Discrimination, was marked
19 for purposes of identification.)

20 - - - - -

21 Q. So on October 1st they send a
22 letter to you telling you to come back to work
23 on October 8th; correct?

24 A. Correct.

25 Q. And then on October 4th you file

1 this Charge of Discrimination; correct?

2 A. Yes.

3 Q. What led you to file a Charge of
4 Discrimination on October 4th?

5 A. Well, I felt it had to do with the
6 Medicare applications.

7 Q. But why did you decide to go -- you
8 have been out of work and that all happened in
9 July, it's been August, September, and then on
10 October 4th you decide to go file with the
11 EEOC, why is that?

12 A. I can't explain why that particular
13 day.

14 Q. Did your lawyer go with you?

15 A. Go with me where?

16 Q. To fill out the complaint at the
17 EEOC?

18 A. No.

19 Q. Or the OCRC? No?

20 A. Did he come with me to fill it out?

21 Q. Right.

22 A. No.

23 Q. But you signed it in front of your
24 lawyer?

25 A. Yes.

1 Q. Did you write the paragraph that's
2 on the form?

3 A. Yes, for the most part. Some I
4 didn't.

5 Q. Who wrote the part that you didn't
6 write?

7 A. My attorney did the part I didn't
8 understand. Well, I guess I didn't understand.

9 Q. What is the perceived disability
10 that you believe you were discriminated on?

11 MR. HERRON: Objection.

12 Calls for her to make a legal
13 conclusion. Calls for a legal conclusion.

14 Q. Go ahead.

15 MR. HERRON: You can answer if you
16 understand the question, obviously.

17 A. What was the question again?

18 Q. What disability did you think
19 people thought you had?

20 MR. HERRON: Same objection.

21 A. I don't understand the legal
22 ramifications of this.

23 Q. Well, I understand that you don't
24 understand the legal --

25 A. I'm not an attorney.

1 Q. Did you think somebody at work
2 thought you had a disability?

3 A. I can't answer that.

4 Q. You don't know if they did?

5 A. I can't answer that.

6 MR. HERRON: It calls for her to
7 make a legal conclusion.

8 Q. Well, you filed a lawsuit where you
9 claim that UH perceived that you had a
10 disability.

11 A. I'm not an attorney.

12 Q. I understand that.

13 Who is it at UH that thought you
14 were disabled?

15 A. I can't answer that.

16 Q. You don't know?

17 A. No.

18 Q. You are unaware of anybody at UH
19 that thought you were disabled?

20 A. I'm not a lawyer.

21 MR. HERRON: Continuing objection
22 to the term disabled.

23 Calls for legal conclusions.

24 Q. Did anybody treat you were like you
25 were disabled?

1 MR. HERRON: Same objection.

2 Calls for a legal conclusion, the
3 term disabled.

4 A. I'm not an attorney. I can't
5 answer that.

6 Q. You can answer it, you don't have
7 to be an attorney.

8 MR. HERRON: She just told you she
9 can't answer, she is not an attorney. She
10 doesn't understand the legal definition.

11 MS. KAMINSKI: I'm not asking her
12 that.

13 Q. What is your definition of
14 disabled?

15 MR. HERRON: Objection.
16 Her personal definition is
17 irrelevant.

18 Q. What is your definition of
19 disabled?

20 MR. HERRON: Objection. Relevance.

21 A. I'm not an attorney. I can't
22 answer it.

23 Q. I'm asking what your personal --
24 what you think is your definition of disabled?

25 MR. HERRON: Same objection.

1 Q. You have to answer.

2 A. I'm not an attorney. I can't
3 answer that.

4 Q. You have to answer the question.

5 A. I don't know how to answer it.

6 Q. Do you not know the definition of
7 disabled for yourself?

8 MR. HERRON: Same objection.

9 Q. Do you know the word disabled?

10 A. Yes.

11 Q. You signed a form here that you
12 said, not your attorney, you believed that you
13 were discriminated against on the basis of a
14 perceived disability. When you signed that
15 form, did you know what you were signing?

16 A. I'm not an attorney. I just based
17 it by my attorney.

18 Q. So you signed a form that you
19 didn't understand the words?

20 A. Yes.

21 Q. Have you ever used the word
22 disabled?

23 A. Yes, I have.

24 Q. In what context have you used the
25 word disabled?

1 A. Probably someone that can't do
2 things for themselves.

3 Q. Okay. And in any other context
4 that you have used the word disabled?

5 A. I don't recall.

6 Q. Let's use that. I think it's a
7 very good definition. Somebody that can't do
8 something for themselves?

9 A. Uh-huh.

10 Q. Did you think that anybody at UH
11 had a view of you that you couldn't do
12 something for yourself?

13 MR. HERRON: Objection.

14 Calls for a guess or speculation as
15 to what other people perceived.

16 A. Right.

17 Q. Is this what you think, I'm not
18 asking whether you are right or not, do you
19 think there is somebody at UH that thought you
20 couldn't do something?

21 A. I can't tell what they were
22 thinking.

23 Q. Okay. Did they treat you in such a
24 way as that you believed that you thought they
25 thought you couldn't do something for yourself?

1 MR. HERRON: Same objection.

2 A. I can't answer that. Well, other
3 than them saying I can't perform my work
4 because of my -- I was sleeping at my desk.

5 Q. Other than them saying you can't
6 perform your work because you were sleeping at
7 your desk?

8 A. Right. That's not true.

9 Q. Anything else?

10 A. No, that's it.

11 Q. Did anybody ever say you can't
12 perform your work or whether they were
13 concerned you could perform your work?

14 A. Well, I believe that's the reason
15 why they sent me to EAP.

16 Q. They sent you to have an evaluation
17 to see if you could do the work; correct?

18 A. And the evaluation said I could do
19 the work.

20 Q. And on the day that they sent you
21 for that you went to your doctor to say you
22 couldn't work; right?

23 A. I was stressed out about the whole
24 situation.

25 Q. Okay. And you couldn't work;

1 right?

2 A. Yes. I couldn't work.

3 Q. In your letter of October 5th to
4 Christina Morrison you wrote, I think that UH
5 has tried, tried to portray me as mentally
6 unstable.

7 In what way had they tried to
8 portray you as unstable?

9 A. I felt that because they sent me to
10 see a psychiatrist.

11 Q. Because of the evaluation?

12 A. No, not because of the evalu -- no,
13 because they sent me to see a psychiatrist.

14 Q. Anything else, other than the fact
15 that they asked you to see a psychiatrist, that
16 led you to say that they were trying to portray
17 you as mentally unstable?

18 A. No, I didn't see any reason why
19 they should have sent me to see a psychiatrist.

20 Q. Is there anything else that they
21 did, other than then standing you to see a
22 psychiatrist, that you think was them trying to
23 portray you as mentally unstable?

24 A. No, that's it.

25 Q. Is there anything that ties what

1 they said or did that ties directly between the
2 fact that they sent you to see a psychiatrist
3 and because you said you wouldn't lie on the
4 provider applications?

5 A. Can you repeat that?

6 Q. It there anything that ties
7 directly their request that you see a
8 psychiatrist to your saying that you wouldn't
9 lie on provider applications?

10 MR. HERRON: Objection.

11 To the extent that it calls you to
12 guess or speculate as to what their motives
13 were, but you can answer.

14 A. Well, the fact that I'm looking at
15 it in black and white that the applications
16 need to be -- that the providers needed to be
17 reached directly and them telling me that I
18 need to follow those directions of the
19 compliance officer.

20 I wanted to make sure that I was
21 putting myself -- that I was complying, but not
22 doing something that I wasn't supposed to be
23 doing.

24 Q. And had anybody ever told you that
25 there was some penalty for putting down the

1 wrong phone number?

2 A. The person that I spoke to at EC,
3 they said, yes, there can be a penalty, which
4 is also on the back of the application,
5 falsifying.

6 Q. Yes, falsifying the application.

7 A. Yes, or misleading.

8 Q. Did anybody from CGS say they
9 thought the wrong phone number was false and
10 misleading?

11 A. They denied the application because
12 they couldn't verify the doctor.

13 Q. Did anyone tell you that the
14 verifying the wrong number would be false and
15 be misleading?

16 A. With the e-mails I got from
17 Shamekia.

18 Q. Did she say false and misleading?

19 A. She never used those exact words.

20 Q. The psychiatrist that you went to
21 see for your evaluation for fit to work said
22 that you should be off work until September
23 4th; is that correct?

24 A. He said two weeks.

25 Q. Okay.

1 - - - - -

2 (Thereupon, Defendant's Exhibit 44,
3 Excerpt, Integrity Manual, was
4 marked for purposes of
5 identification.)

6 - - - - -

7 Q. Showing you what I have marked as
8 Exhibit 44.

9 What is this?

10 A. This looks like this is part of, I
11 can't -- yeah, part of the integrity manual.

12 Q. Where did you get it?

13 A. I don't recall having this. This
14 is probably -- I don't recall. This is part of
15 the manual that changed. It changed in March
16 or May.

17 Q. Where did you get this document
18 from?

19 A. I don't recall.

20 Q. Did you ever have this document in
21 your possession?

22 A. I don't recall.

23 MS. KAMINSKI: Can you look to see
24 if this is a document that was produced from
25 her, Counsel?

1 MR. HERRON: Excuse me?

2 MS. KAMINSKI: Can you look to see
3 if this a document that she provided?

4 MR. HERRON: Yes, we provided it.
5 It has our Bates Stamp on the bottom.

6 MS. KAMINSKI: Does that mean that
7 she has provided it to you?

8 MR. HERRON: Well, I'm not going to
9 tell you what she has provided to me or not
10 provided to me, that's privileged information.

11 We provided to you as part of our
12 response to your request for production of
13 documents.

14 Q. Is this a document you think you
15 had in your possession ever?

16 A. I don't recall.

17 Q. Have you kept the original
18 documents at home?

19 A. For the most part, yes.

20 Q. Would you look to see, please,
21 whether or not this is a document that you
22 have?

23 A. I don't have anything with me.

24 Q. You can look, we are going to get
25 back together, in between you can look to see

1 if this is a document that you had in your
2 possession. Okay?

3 A. Okay.

4 - - - - -

5 (Thereupon, Defendant's Exhibit 45,
6 CMS-8551, was marked for purposes of
7 identification.)

8 - - - - -

9 Q. Showing you what I have marked as
10 Exhibit 45.

11 What is this?

12 A. This is the CMS application, 855I.

13 Q. And why did you have this?

14 A. This is the actual application that
15 we were instructed to fill out.

16 Q. What does it say under the first
17 line of B, is that your writing?

18 A. Yes.

19 Q. What does that say?

20 A. We are a billing agency for
21 provider.

22 Q. Is that what yours said that when
23 you filled it out?

24 A. No, I just put that in there.

25 These are little notes.

1 Q. Those are notes to yourself?

2 A. Yes.

3 Q. When did you put those on the
4 document?

5 A. I don't recall.

6 Q. Before the lawsuit?

7 A. I don't recall.

8 Q. And what does that other note say?

9 A. Were told to complete this portion
10 with my phone number.

11 Q. And when did you put that note on
12 there?

13 A. I don't recall.

14 Q. Before the lawsuit?

15 A. I don't recall.

16 Q. So you have no idea when you wrote
17 those notes to yourself?

18 A. I would say before the lawsuit.

19 Q. Were those notes to yourself or
20 notes to somebody else?

21 A. Well, this right here says January
22 11th. It says January 11th, 2013.

23 Q. So how is it that you printed this
24 off or had this?

25 A. I don't recall.

1 Q. And were those notes to yourself or
2 notes to somebody else?

3 MR. HERRON: Asked and answered.

4 She said she doesn't recall.

5 A. I don't recall.

6 MS. KAMINSKI: She didn't answer
7 that. She gave me the date in response to that
8 question.

9 A. I don't recall.

10 - - - - -

11 (Thereupon, Defendant's Exhibit 46,
12 Letter From Christina Morrison dated
13 July 26, 2012, was marked for
14 purposes of identification.)

15 - - - - -

16 Q. Let me show you what I have marked
17 as Exhibit 46.

18 MR. HERRON: Can you make this the
19 last one for the day?

20 MS. KAMINSKI: The last exhibit,
21 then I have other questions.

22 A. Can I see the application?

23 Q. Here is Exhibit 46.

24 If you would look through those
25 documents and tell me if that is all your

1 handwriting on those documents?

2 A. Yes, it is.

3 Q. Look at each one.

4 A. Uh-huh. Okay. This is my
5 handwriting.

6 Q. Do you know when you wrote these
7 notes?

8 A. No, I don't recall when I wrote
9 them.

10 Q. Are they notes to yourself or notes
11 to somebody else?

12 A. Well, notes to myself.

13 Q. Were they before the lawsuit or
14 after?

15 A. They were probably before the
16 lawsuit.

17 MS. KAMINSKI: All right. We will
18 come back to those next time. I need just a
19 minute, then we will finish up for the day.

20 (Short recess had.)

21 Q. Just a couple to wind up today and
22 then we can get back together when we set
23 another date.

24 During September of 2012 were you
25 working at your real estate business?

1 A. September of 2012, I don't recall.

2 Q. Would you have any records that
3 would help you, any calendars that would show
4 what you were doing during September of 2012?

5 A. I may have -- well, the calendar
6 that I had at my desk I didn't have access to.

7 Q. Did you have a calendar that you
8 used at home?

9 A. No, I kept it at my desk.

10 Q. Did you have a calendar that you
11 maintained in your phone?

12 A. No.

13 Q. Okay. So when you went back in on
14 October 8th to go to work, you were planning on
15 starting work that day; correct?

16 A. Yes.

17 Q. And the only reason that you didn't
18 continue your job is because you were asked to
19 fill out the --

20 A. Medicare application.

21 Q. -- Medicare application using your
22 phone number; is that correct?

23 A. Correct.

24 Q. And had you agreed to do that you
25 would have been working there as of October

1 8th; correct?

2 A. I assume so.

3 Q. Because that was the only issue
4 that was brought up in that meeting; correct?

5 A. In the meeting with?

6 Q. On October 8th.

7 A. Can I have a copy of the document?

8 Q. What document?

9 A. I mean, the return to work
10 document.

11 Q. The letter that said, come in on
12 October 8th?

13 A. No, the one that I responded to
14 coming back to work.

15 MR. HERRON: The letter of the 5th
16 is what you are talking about?

17 THE WITNESS: Yeah, the letter of
18 the 5th.

19 Q. Your letter?

20 A. Yes.

21 - - - - -

22 (Thereupon, Defendant's Exhibit 47,
23 Letter From Victoria Johnson dated
24 October 5, 2012, was marked for
25 purposes of identification.)

1 - - - - -

2 Q. I will hand you what I have marked
3 as Exhibit 47, which is your letter of October
4 5th.

5 A. Okay. So I requested to work in a
6 non-hostile work environment. I needed a copy
7 of my drug and alcohol screening and the
8 psychiatric report from Dr. Pallas, because I
9 never received it.

10 Not to be asked to complete
11 Medicare, Medicaid, out of state Medicaid
12 and/or any other provider enrollment
13 applications that are prohibited or in
14 violation of their rules.

15 Would like to see a company-wide
16 distributed e-mail informing employees that
17 they are no longer permitted to rest at their
18 desks during their breaks.

19 Would like to have confirmed and/or
20 a report that Paul Simmons has also been placed
21 on unpaid administrative leave subject to a
22 mandatory psychiatric evaluation, as I have
23 reported to HR his offensive sexual behavior.

24 And then I wanted to not be
25 subjected to retaliatory corrective actions,

1 which I believe I received, be it formal or
2 informal.

3 And yet to see a copy of the
4 corrective actions presented to me during my
5 2011, it should have been '12, no 2011,
6 performance that were clearly retaliatory
7 because of my complaint to HR regarding Paul
8 Simmons' sexual behavior, although he has moved
9 to the other side of the building, I am not
10 totally comfortable with his presence in the
11 building.

12 I was not totally comfortable with
13 his presence.

14 Q. What did you want to read that
15 letter for?

16 A. Well, you asked me if the
17 application was the only thing that would
18 prohibit me and these are also things that I
19 was hoping to expecting to return to.

20 Q. So unless one through six was
21 complied with you weren't going to come back to
22 work?

23 A. I would have probably -- I mean.
24 Eventually they would have to be complied with.
25 I don't think I was asking for anything

1 unreasonable. I think with the e-mails, I
2 think it's fair to not just, you know, have the
3 provider enrollment department, that is
4 something that I feel should be company wide,
5 but it wouldn't be the end of the world.

6 But the main thing was making sure
7 that people were in compliance with the
8 application.

9 Q. And the only thing that was
10 discussed that day on October 8th was about the
11 filling out the applications?

12 A. No, we discussed everything.

13 Q. You discussed everything?

14 A. Yeah, there was a letter she --

15 Q. She responded to your letter, but
16 -- so they told you you would come back to a
17 non-hostile work environment; is that correct?

18 A. Right.

19 Q. And she told you she would give you
20 a copy of the drug and alcohol screening and
21 psychiatric report?

22 A. Can I see that document?

23 Q. I am saying she told you that;
24 right?

25 A. I don't recall what she told me,

1 it's in that letter.

2 Q. We can just go through here, what
3 do you recall?

4 MR. HERRON: When I told you I
5 needed to be out of here by 4:30 I was pretty
6 serious. We are running on quarter of.

7 MS. KAMINSKI: Okay. Let's finish
8 this.

9 MR. HERRON: Well, let's get done
10 in a like a minute or so.

11 A. I said she would or wouldn't do, I
12 don't recall offhand.

13 Q. You don't remember whether or not
14 they would comply with number two?

15 A. I need to see the letter.

16 Q. So without the letter you can't
17 remember?

18 A. No, I can't remember.

19 Q. Number 3. Discussed the complete
20 Medicare and Medicaid form and you basically
21 told them you would not do it the way they
22 wanted you to do it; correct?

23 A. Correct. Because it a discrepancy
24 with what CGS was telling me.

25 Q. And they told you that they needed

1 you to fill out those forms the way they were
2 asking you to do it; correct?

3 A. Right.

4 Q. And you told them you couldn't, so
5 there is no sense staying; correct?

6 A. No, they said if I didn't fill them
7 out that they would terminate me.

8 Q. And?

9 A. They terminated me.

10 Q. And then they told you, why don't
11 you go home and think about it for 24 hours;
12 correct?

13 A. Yes.

14 Q. And you said you didn't need to
15 think about it?

16 A. Right, I wasn't going to complete
17 the application.

18 Q. You absolutely said there was no
19 way you were going to do it that way; right?

20 A. Correct.

21 Q. Rather than doing it that way you
22 understood that you were going to lose your
23 job?

24 A. Correct.

25 Q. So these other things, one through

1 six, weren't the issues that caused you to lose
2 your job, it was the simply number three --

3 A. Correct.

4 Q. -- correct?

5 MR. HERRON: Okay. Let's call it a
6 day. I really do need to get moving.

7 MS. KAMINSKI: We will agree that
8 we will come up with a --

9 MR. HERRON: We will.

10 MS. KAMINSKI: -- time and date to
11 finish the deposition?

12 THE NOTARY: Would you like to
13 advise on waiver now?

14 MR. HERRON: We will wait until the
15 end on waiver. We will review it. I always
16 review it.

17 (Deposition adjourned at 4:46 p.m.)

18

19

20

21

22

23

24

25

1 Whereupon, counsel was requested to give
2 instruction regarding the witness's review of
3 the transcript pursuant to the Civil Rules.
4

5 SIGNATURE:

6 Transcript review was requested pursuant to the
7 applicable Rules of Civil Procedure.
8

9 TRANSCRIPT DELIVERY:

10 Counsel was requested to give instruction
11 regarding delivery date of transcript.
12

13 Original - Ms. Kaminski
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REPORTER'S CERTIFICATE

The State of Ohio,)

SS:

County of Cuyahoga.)

I, Christine M. Krause, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, VICTORIA DEBRA JOHNSON, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the above-referenced witness was by me reduced to stenotypy in the presence of said witness; afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony so given by the above-referenced witness.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified.

1 I do further certify that I am not a
2 relative, counsel or attorney for either party,
3 or otherwise interested in the event of this
4 action.

5 IN WITNESS WHEREOF, I have hereunto
6 set my hand and affixed my seal of office at
7 Cleveland, Ohio, on this 21 day of
8 MARCH, 2014.



9
10
11
12
13 Christine M. Krause
14 Christine M. Krause, Notary Public
15 within and for the State of Ohio
16

17 My commission expires January 14, 2014.
18
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25

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT NO: 1828241

CASE NAME: Johnson, Victoria v. UH Physician Services

DATE OF DEPOSITION: 3/14/2014

WITNESS' NAME: Victoria Debra Johnson

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have made no changes to the testimony as transcribed by the court reporter.

Date

Victoria Debra Johnson

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;
They signed the foregoing Sworn Statement; and
Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

DEPOSITION REVIEW
CERTIFICATION OF WITNESS

ASSIGNMENT NO: 1828241

CASE NAME: Johnson, Victoria v. UH Physician Services

DATE OF DEPOSITION: 3/14/2014

WITNESS' NAME: Victoria Debra Johnson

In accordance with the Rules of Civil Procedure, I have read the entire transcript of my testimony or it has been read to me.

I have listed my changes on the attached Errata Sheet, listing page and line numbers as well as the reason(s) for the change(s).

I request that these changes be entered as part of the record of my testimony.

I have executed the Errata Sheet, as well as this Certificate, and request and authorize that both be appended to the transcript of my testimony and be incorporated therein.

Date

Victoria Debra Johnson

Sworn to and subscribed before me, a Notary Public in and for the State and County, the referenced witness did personally appear and acknowledge that:

They have read the transcript;
They have listed all of their corrections in the appended Errata Sheet;
They signed the foregoing Sworn Statement; and
Their execution of this Statement is of their free act and deed.

I have affixed my name and official seal
this _____ day of _____, 20____.

Notary Public

Commission Expiration Date

ERRATA SHEET
VERITEXT LEGAL SOLUTIONS MIDWEST
ASSIGNMENT NO: 1828241

PAGE/LINE(S)	CHANGE	REASON
1/1	1	1

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Date _____ Victoria Debra Johnson

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____

DAY OF _____, 20____.

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Commission Expiration Date

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